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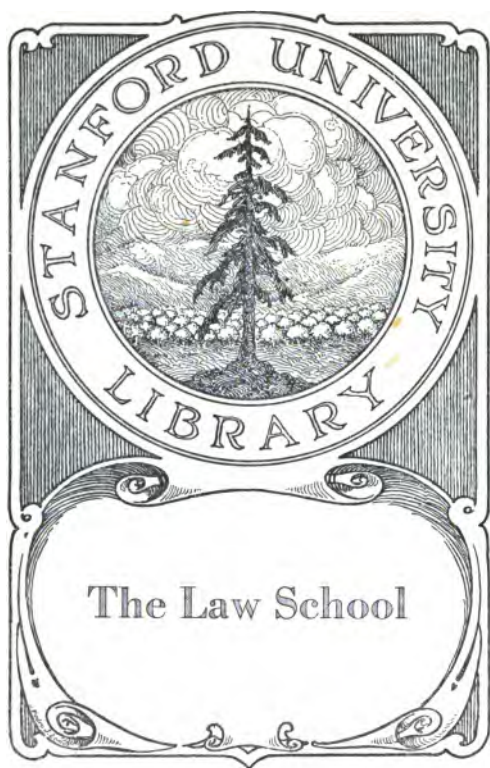
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Tecumseh Collection

ACTS

PASSED AT

THE FIRST SESSION

D. Neay.

OF THE

TWENTY-THIRD GENERAL ASSEMBLY

Wm. C. Brown

OF THE

STATE OF TENNESSEE.

1839--40.

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CONTENTS.

	PAGE.
An act to repeal the laws authorizing the Governor of this State to subscribe for stock in any internal improvement companies on behalf of the State, and for other purposes,	1
An act to make more public an act passed December 11, 1837, establishing DeKalb county,	7
An act to authorize the county courts to purchase and hold sites for offices for clerks of county courts and other county officers,	12
An act to repeal the second section of an act entitled an act to extend the corporation of the town of Murfreesborough for certain purposes, passed the 26th day of December, 1837,	13
An act to extend the terms of the circuit courts for Sevier county, and for other purposes,	13
An act to ascertain and equalize the prison bounds throughout the State,	14
An act to allow an additional civil district to counties in this State, under certain restrictions,	15
An act to amend an act entitled an act to dispose of the lands in the Ocoee district, passed the 29th of November, 1837,	15
An act to establish the county of Polk,	17
An act to amend the act of 1827, chapter 30th, entitled an act in relation to the change of venue in criminal causes,	22
An act for the relief of Thomas Sherley, of Hamilton county,	24
An act to repeal an act passed December 23d, 1837, chapter 40, declaring Buffalo river navigable up to Beardstown in Perry county,	25
An act to establish the county of Powell,	25
An act to change the time of holding the circuit courts of Robertson county,	30
An act to authorize James Vaughn and James Ghormley to open and keep up a turnpike road,	31
An act to incorporate a turnpike and bridge company across the Reel-foot lake to the Mississippi river,	33
An act to incorporate the inhabitants of the town of Ashport, in Lauderdale county,	35

An act to incorporate the Clarksville Marine Fire Insurance and Life and Trust company,	37
An act to regulate and alter the time of holding certain chancery and circuit courts, and for other purposes,	42
An act to provide for the payment of twenty-five dollars to Holman and Hollingsworth for services rendered the State,	46
An act giving further time to former sheriffs to collect arrearages for taxes,	46
An act to exempt persons disabled by sickness or other causes from working on public roads,	47
An act to incorporate the trustees of Ashland academy, in Wayne county, and for other purposes,	47
An act to provide for the probate and registration of deeds and other instruments executed beyond the limits of the United States, and for other purposes,	48
An act for the relief of A. M. Rogers, late sheriff and collector of Hamilton county,	52
An act for the charter of Perryville and Lexington turnpike company, and for other purposes,	52
An act to amend an act passed at Nashville, in the year 1838, relative to the internal improvement fund of Lawrence county,	55
An act for the benefit of James Spencer, a citizen of Meigs county, in the Ocoee district,	56
An act for the relief of Erby Boyd, of Bradley county,	56
An act to establish the town of Chattanooga, in the county of Hamilton, and to incorporate the inhabitants thereof,	57
An act supplemental to an act passed on the 22d of December, 1835, entitled an act to establish chancery courts,	60
An act to incorporate the Bersheba Chalybeate springs, in the county of Warrel, and the Bloomingdale Medicinal springs, in Franklin county, and Coffee county Medicinal springs,	61
An act to authorize aliens to hold, convey, mortgage, lease, demise and inherit real estate, lands and other property, and for other purposes,	63
An act to alter the dividing line between the counties of Sevier and Blount,	64
An act to re-enact and amend an act to establish a system of common schools in the State of Tennessee, passed January 24th, 1838,	65
An act to regulate the receipt and disbursement of the common school monies,	75
An act to amend an act of 1831, chapter 40, entitled an act to abolish imprisonment for debt except in cases of fraud,	77
An act to explain and extend the provisions of the act of 1794, chapter 1, section 32, passed September 29th, 1794,	78
An act further to amend an act entitled an act more effectually to subject property in this State belonging to non-resident debtors in the payment of their debts due citizens of this and other States, passed February 15th, 1836,	80
An act to amend an act entitled an act declaring Ocoee river navigable,	81

An act prescribing the manner in which the laws of other States of this Union shall be received as evidence in this State,	81
An act to authorize the issuance of grants in certain cases,	82
An act to amend the law of descents and distributions,	83
An act to amend the several laws in relation to tobacco inspection,	84
An act to permanently establish the seat of justice in Hamilton county,	86
An act to exempt certain persons from military duty,	89
An act making an appropriation of money to Richard G. Scoggin,	89
An act for the relief of females, and to authorize the granting of divorces in certain,	90
An act to repeal the sixth section of an act passed on the 19th day of January, 1838, entitled an act to amend an act entitled an act to incorporate the inhabitants of the town of Knoxville, in the county of Knox, passed October 27th, 1815,	91
An act to condense and bring into one view the militia law of the State of Tennessee,	91
An act to restore certain persons to the rights and privileges of citizens, and for other purposes,	128
An act to provide for the correction of the survey of range 4 west of the basis line in the Ocoee district,	129
An act to establish the county of Van Buren,	130
An act to extend the act of 1837 and 8, chapter 206, and to create a body politic and corporate, to be called the Merchants Insurance and Trust company of Nashville,	134
An act to incorporate the Vanville Rail Road Company,	137
An act for the benefit of the occupant settlers south and west of the Congressional reservation line,	144
An act to increase the amount of the penalty of the bonds of sheriffs and constables, and for other purposes,	146
An act to amend the fifth section of an act entitled an act setting forth the property real and personal, and the privileges and occupations liable to taxation in this State,	147
An act to extend the corporate limits of the town of Hartsville, in Sumner county,	148
An act to establish a chancery court at Lewisburg, in Marshall county, and for other purposes,	149
An act to protect the owners of mills in the enjoyment of their rights,	150
An act to incorporate the citizens of the town of Hampshire, in Maury county,	151
An act to establish a branch of the Bank of Tennessee at Sparta, in the county of White,	152
An act for the relief of such persons as made improvements upon school sections in the Ocoee district,	153
An act to incorporate the Union College, in Robertson county,	155
An act to encourage the killing of wolves in the county of Morgan,	156

An act giving further time for obtaining grants in the Hiwassee district,	157
An act to provide for the reduction of the State debt,	157
An act to attach a portion of Stewart county to the county of Humphreys,	158
An act to incorporate the Memphis Female Academy, and for other purposes,	159
An act to provide for the viewing and laying off an alteration of the road leading from Newport, in the county of Cocke, to Sevierville, in the county of Sevier,	160
An act prescribing the mode of choosing electors to vote for President and Vice President of the United States,	162
An act to repeal an act entitled an act to attach a part of Perry county to the county of Wayne, passed December 26, 1837,	165
An act to authorize the county courts of Bradley and Polk counties to elect surveyors, and for other purposes,	165
An act to make penal the misuse and misapplication of public money,	167
An act to suspend the entry of lands in the Ocoee district,	168
An act to declare Conasauga river navigable,	169
An act to authorize judgment by motion to be taken against clerks of the several courts of this State for failing to render an account and paying over monies by them collected for the use of the several counties of this State,	169
An act to extend the corporate limits of the town of Gallatin, in the county of Sumner,	170
An act to authorize William Brown, Joseph Kimbrough and William K. Waddy to open a turnpike road,	171
An act to increase the tax on brokers,	173
An act to incorporate the Central Female Academy at Hartsville,	173
An act to repeal all laws declaring the little north fork of Forked Deer river navigable,	175
An act to amend an act entitled an act to establish turnpike bridges in the Western district,	175
An act to alter and amend the several acts in relation to the Bean Station turnpike road,	176
An act to incorporate the Duck river Steam Navigation Company,	177
An act to authorize Josiah M. Anderson, of Marion county, and George W. Williams, of Hamilton county, to open a turnpike road,	180
An act to re-appoint Dr. Gerard Troost to the office of Geologist, Mineralogist and Assayer of the State of Tennessee,	183
An act to regulate the salaries of the officers of the Bank of Tennessee and branches,	184
An act to dispose of the profits of the Penitentiary, and for other purposes,	185
An act to incorporate an Academy in the county of Claiborne to be called the Powell's Valley Male Academy,	186
An act to authorize the Cumberland and Stone's river turnpike	

company to surrender their charter for a part of said road, and for other purposes,	187
An act to prevent public county roads from being obstructed by certain turnpike companies and others,	189
An act supplementary to the acts to incorporate the Lagrange and Memphis Rail Road Company,	190
An act to distribute the Academy monies, and for other purposes,	192
An act for the benefit of sheriffs, and to pay the guard necessary in conveying prisoners to jail,	194
An act to consolidate the funds and to provide for but one instead of two separate classes of public schools in Lincoln county in this State,	195
An act to secure the State in the trial of criminal causes,	198
An act to amend the charter of Aarop Higginbotham's turnpike road across Cumberland mountain,	198
An act to repeal all laws heretofore passed in this State declaring Wolf river, in the Western district, navigable,	199
An act to authorize and require the Chancellor of the Western division to hold a special court in the town of Sommerville,	199
An act to give the county court the power to elect commissioners on the Obion river, and for other purposes,	200
An act to authorize the citizens of Cocke county to build mills across Big Pigeon river, in Cocke county,	200
An act to amend an act to incorporate the town of Athens, passed 1833,	201
An act to authorize the county court of Hamilton county to permit the building of mills in certain cases,	201
An act to encourage the manufacture of iron in the Ocoee district,	202
An act to prevent fraud and imposition in the sale of salt and sugar,	204
An act granting further time to Samuel B. Mead to complete his road across the Lookout and Raccoon mountains,	204
An act to incorporate the Nashville and White's creek turnpike company,	205
An act for the benefit of certain persons residing on part of Walden's ridge, in Rhea county,	206
An act for the relief of Henry Stephens, of Monroe county,	207
An act to explain an act passed on the 7th November, 1837, conferring additional authority on the commissioners of the town of Perryville, and for other purposes,	207
An act to carry into operation the Lunatic Hospital,	208
An act to explain an act passed January 17th, 1838, chapter 109,	211
An act requiring the distribution of the interest of the common school monies of Davidson, Rutherford and Bedford counties,	212
An act to authorize the entry taker of the Ocoee district to correct mistakes and refund money,	213
An act to authorize the county court of Blount county to make an allowance to James Glass, former jailor of said county,	213

An act to amend and explain the law in relation to notaries public,	214
An act to extend the charter of Paint mountain turnpike company,	214
An act for the relief of certain persons that have entered lands in the Ocoee district that the State cannot make titles to,	215
An act to prevent frauds in entering and selling lands previously appropriated,	215
An act to extend certain privileges to the owners of iron works,	216
An act for the relief of certain purchasers and assignees of purchasers of reservations in the Hiwassee district,	217
An act to amend the law in relation to executors and administrators,	219
An act to confer certain privileges on the commissioners of the town of Dyersburg,	219
An act to refund Brice A. Collins twenty-six dollars and fifty cents,	220
An act authorizing the extension of streets, alleys and margins in towns in certain cases,	220
An act authorizing the county court of Lincoln county to grant the privilege of building mills and factories in certain cases,	222
An act to abolish the Mayor's court of the city of Nashville,	224
An act to incorporate the Memphis Manufacturing company, and for other purposes,	225
An act to appropriate the school lands in the Ocoee district, in the counties of Meigs, Hamilton and Marion, to the use of schools for the instruction of children therein,	228
An act to provide for the collection of demands due the State or due the Bank of Tennessee, or other demands in which the State has an interest,	230
An act to change the time of holding circuit courts for the counties of Carroll, Benton, Perry, Hardin, Wayne and Lawrence,	231
An act to incorporate Sommerville College, in the county of Fayette,	232
An act to explain and make more plain the first and second sections of an act passed the 9th day of February, 1836, entitled an act to provide for the appointment of a collector of the revenue, and to define his duties,	235
An act to authorize the county trustees of the counties of Bedford, Rutherford and Davidson to receive such monies as said counties may respectively be entitled to upon the internal improvement fund of said counties invested in the capital stock of the Nashville, Murfreesboro' and Shelbyville turnpike,	235
An act to repeal part of an act passed on the 9th of February, 1836, entitled an act to provide for the appointment of a collector of the revenue and define his duties, and for other purposes,	236
An act to amend an act incorporating the town of Sommerville, in the county of Fayette,	237
An act to legalize the location of the Franklin and Columbia turnpike road,	238

An act to provide for the taking of the enumeration of the free white male inhabitants of the State of Tennessee,	239
An act to amend an act chartering the Bank of Tennessee, passed November 20th, 1811, and for other purposes,	241
An act to authorize Allen White to open a turnpike road in Warren and Marion counties,	241
An act to authorize Moses Thompson, of Rhea county, to open a turnpike road, and for other purposes,	241
An act to vest in the circuit courts the power to restore certain persons to the rights of citizenship,	242
An act directory to the Secretary of State,	245
An act for the relief of the heirs of the occupants in the Ocoee district,	247
An act to define and fix the duration of the terms of service of directors appointed to represent the State in companies chartered by the State for purposes of internal improvement,	247
An act to amend the acts incorporating the town of Memphis,	248
An act to amend an act granting Jesse Lincoln a turnpike road &c.	249
An act supplemental to an act passed January 19th, 1838, to charter the White's creek springs company,	249
An act to incorporate the Van Buren Male Academy, in Fentress county, and for other purposes,	250
An act to incorporate the Shelbyville, Winchester and Jasper turnpike company,	251
An act more effectually to provide for the collection of the public revenue from delinquent officers,	253
An act to alter and amend the 11th section of chapter 17th of public acts of 1835-6,	257
An act making an appropriation of money to defray the expenses of the present session of the General Assembly, and for other purposes,	258
Preamble and resolutions instructing our Senators and requesting our Representatives in Congress in relation to certain subjects,	261
A resolution directory to the Secretary of State,	264
A resolution directing the Secretary of State to adjudicate warrant No. 1239,	265.
A resolution directory to the public printer,	265
A resolution directory to the register of the Western district,	266
A resolution directory to the several entry takers south and west of the Congressional reservation line,	266
A resolution authorizing the Secretary of State to sign certain grants,	267
A joint resolution for the relief of the securities of Benjamin S. Mabry, late sheriff of Wilson county,	267
A resolution directory to Samuel B. Rogers, attorney for the State,	268.
A joint resolution directory to the Secretary of State,	268
A resolution removing the seat of government from the city of Nashville to the town of Murfreesborough, in the county of Ruth- erford,	269

A resolution directory to Edmund W. Tipton or the entry taker of Tipton county,	269
A resolution referring grant No. 62, to Secretary of State for adjudication,	270
A resolution instructing our Senators and requesting our Representatives in Congress to use their exertions to procure the passage of a law in relation to vacant lands,	270
A resolution referring grant No. 3366, for adjudication,	271

ERRATA.

In the sixth line of section 1, chapter xxxviii, for "common school monies," read "common schools of the State."

. In the fourteenth line of section 13, after the word "divided" insert "and a new county formed by such division."

ACTS
OF THE
GENERAL ASSEMBLY OF TENNESSEE,

PASSED AT THE FIRST SESSION OF THE TWENTY-THIRD GENERAL ASSEMBLY, WHICH WAS BEGUN AND HELD AT NASHVILLE, ON MONDAY, THE SEVENTH DAY OF OCTOBER, IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND THIRTY-NINE.

CHAPTER I.

An Act to repeal all laws authorizing the Governor of this State to subscribe for stock in any internal improvement companies on behalf of the State, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That all laws authorizing the Governor of this State to subscribe for stock on behalf of the State in any company incorporated or to be incorporated for the purpose of constructing any works of internal improvement, be and the same are hereby repealed. Repeal.

SEC. 2. *Be it enacted,* That the president and directors of any internal improvement company in which the Governor has subscribed for stock on behalf of the State, but has not issued any bond or bonds in payment for such stock, or any part thereof, may by deed surrender the charter of such company, which deed shall be filed in the office of the Secretary of State. And in case the Governor shall have issued any bond or bonds of the State in part or whole payment of stock subscribed by him on behalf of the State in any of said internal improvement companies, the president and directors of such company, by first filing in the office of the Secretary of State, to be cancelled, all of such bonds issued to such company, and paying into the Bank of Tennessee, or any of its branches, to the credit of the State, all interest on the same bond or bonds received by such company from the State, may surrender the charter of such com- Surrender of charters.

Release of the
State.

pany by deed, which deed shall also be filed in the office of the Secretary of State. And the president and directors of any such company in which the Governor has subscribed for stock on behalf of the State, whether the bond or bonds of the State have been issued or not, in whole or part payment of such stock, may by deed release the State from such subscriptions, which deed shall be filed in the office of the Secretary of State.—*Provided*, the Governor shall be of opinion the acceptance of such deed of surrender and dissolution of partnership shall be advantageous as well to the State as to said company: *Provided*, that in case any bond or bonds of the State have issued, such bond or bonds shall be first filed in the office of the Secretary of State to be cancelled, and any interest thereon that shall have been paid by the State, shall be first paid into the Bank of Tennessee or its branches to the credit of the State.

Dissolution of
co-partnership in
unfinished roads

SEC. 3. *Be it enacted*, That in case any internal improvement company in which the Governor has subscribed for stock, and the road not completed, shall be willing to release the State from its subscription or co-partnership in said road, it may be lawful, and the Governor is authorized and empowered, for and on behalf of the State, to dissolve such co-partnership upon the following conditions, to wit: All the bonds which may have been issued by the State to such company shall be filed in the office of the Secretary of State, and all the interest that may have accumulated thereon and been paid by the State, shall be paid into the Bank of Tennessee, together with all other expenses which the State may have incurred in such partnership; then it shall be lawful for the individual stockholders to prosecute to completion, on their own liability, such road. *Provided*, that no surrender shall be made under this section, unless the Governor, Comptroller and Attorney General shall be of opinion that the interest of the State will be advanced by such surrender.

For the prevention
of fraud.

SEC. 4. *Be it enacted*, That in all cases where the subscription of stock by the State in any incorporated company shall have been procured by fraud or mistake; or where the incorporated companies have been making a fraudulent or improper use of the subscriptions of stock on the part of the State, or the bonds issued in pursuance thereof, or where the incorporated companies have disposed of the bonds, and have made, or are attempting to make a fraudulent or improper use of the proceeds, or have or intend to apply the same to any other purpose than the *bona fide* prosecution of the public work for which the same was issued, or may be claimed to be issued, or where the corporation or its agents have not acted, or shall not be acting up to the end and design for which they were created, and are not proceeding in good faith to make and accomplish the works

of internal improvement for which they were incorporated, or where, although the company does intend to make and accomplish the work, yet it intends to do so at the expense of the State, and does not intend the private stockholders to pay their due proportion thereof. In all the foregoing cases it shall be lawful for the Attorney General for the State to file his bill on the part of the State against the private stockholders in said company, in which he shall set forth the facts of the case and a prayer for relief, as in other bills of chancery; and if, upon the hearing of the case, it shall appear that the work is a valuable improvement and ought to progress, the court may direct the same to be done; but if the State has paid more than its proportion of the expense, the private stockholders shall be decreed to refund as much to the State in proportion to the stock subscribed by each as will make the State and all the stockholders equal. And if any of the other foregoing matters shall appear, the court shall be authorized to annul and make void the charter, or to decree such relief as the parties may be entitled to if the charter were a private agreement, and according to the modes and principles governing courts of chancery in enforcing or cancelling contracts and giving relief in consequence thereof. Where any bill shall be filed under this act, a service upon the president or any of the directors elected by the private stockholders shall be equivalent to a service on all the stockholders, and the court shall proceed as though the process were served on all. And in like manner, the Chancellor shall be authorized to issue injunctions, appoint receivers, and grant all other orders and process necessary to prevent mischief and carry into effect the objects and intent of this act. And in each and every case where any company shall have received or may claim the right of having issued and receiving any amount of State bonds, it shall be the duty of the commissioners appointed under this act to investigate the affairs and accounts of such company according to the provisions of this act, requiring proof on oath, and report the same on oath to the Governor, who shall refer the same to the Attorney General and the Comptroller of the Treasury, for such action thereon as they, together with the Governor, may deem the public good to require.

Duty of Attorney General.

Of the Chancellor.

Of the Commissioners.

Sec. 5. *Be it enacted*, That it shall be the duty of the Attorney General for the several circuits or solicitorial districts throughout the State, to make diligent inquiry into the cases provided for in this act, and to give information when necessary to the Attorney General for the State, and to file such bills and to attend to the cases under his superintendence, as may come under the provisions of this act, when the Attorney General for the State cannot attend to the same in person.

Duty of District Attorneys.

Fraudulency.

SEC. 6. *Be it enacted*, That when it shall appear to the Governor, from information or evidence, that any internal improvement company has in anywise acted fraudulently, and contrary to the intent of the provisions of the act of incorporation, or has failed to pay or invest the stock by the stockholders subscribed, it shall not be lawful for him to issue any further bonds to such company, unless such company shall satisfactorily make it appear that they have in all things honestly and *bona fide* complied with the true intent of the several acts incorporating such company.

SEC. 7. *Be it enacted*, That nothing contained in this act shall be construed as to effect the bonds issued for the improvement of the rivers in this State.

Reduction of capital stock.

SEC. 8. *Be it enacted*, That the president and directors of any internal improvement company in which the State has taken stock, may, with the assent of the Governor, reduce the amount of the capital stock of such company; *Provided*, the company shall have all the rights and be subject to all the restrictions and duties contained in the charter in other respects; *and provided*, that nothing contained herein shall be construed to authorize the company to diminish the extent of the work for which the company was incorporated to make according to the charter.

Failure or refusal to surrender charter.

SEC. 9. *Be it enacted*, That if any internal improvement company heretofore incorporated, in which the State has become a subscriber for a part of the capital stock thereof, shall fail or refuse to surrender its charter, or release the State from its subscription, as hereinbefore provided, or where the charter thereof shall not be cancelled for fraud, by a bill in chancery, as hereinbefore provided, the subscription on the part of the State in such company shall be paid by the issuance of the bonds of the State according to the provisions of the existing laws, subject, nevertheless, to the limitations and restrictions hereinafter contained.

Commissioners to inspect.

SEC. 10. *Be it enacted*, That before any further bonds of the State shall be issued to any of said internal improvement companies in which the State has heretofore become a subscriber it shall be the duty of the Governor upon the application of any of said companies for the further issue of State bonds in payment of the State's subscription to commission three respectable and disinterested persons to examine and inspect the work actually done and performed on the road or roads (by the actual expenditure of the money paid in by individual stockholders and the State bonds) for the further construction of which the companies may apply for a further issue of State bonds, and it shall be the duty of said commissioners to report on oath in writing to the Governor, the Comptroller, and Attorney General for the State, the amount of work done thereon by the actual expenditure of the money and State bonds, and whether in their opinion it

has been done according to the provisions of the charters respectively; and if it shall appear from said report to the satisfaction of the Governor, Comptroller and Attorney General that work has been done and performed on said roads respectively in the way and manner aforesaid by any of said companies in conformity with their charters to the amount of the capital heretofore paid in by the individual stockholders and the amount of bonds heretofore issued by the State for the benefit of said companies respectively; and if any of said companies shall make application to the Governor for the further issue of State bonds in further payment of the State's subscription in any of said roads, before it shall be lawful for him to issue the same, the said commissioners shall certify to the Governor the Comptroller and the Attorney General that they are satisfied by the oath of the president and treasurer of said company that the additional sum paid in by the individual stockholders, specifying the precise sum that has been *bona fide* paid in by them and is intended to be applied *bona fide* to the construction of the public works or road as the case may be, and they shall be satisfied that no fraud has been practised by said company, it shall be the duty of the Governor to issue the bonds of the State for the benefit of such company for an amount equal to the additional sum paid in by the individual stockholders, but no bond of the State shall be issued for a less amount than one thousand dollars; and in like manner when the work shall have progressed and work to the amount of the additional amount of the capital stock thus paid in by the individual stockholders and the additional amount of bonds thus issued by the State shall have been done and performed on said road, a like examination of the additional work done thereon shall be made by three commissioners to be in like manner appointed by the Governor, and a like report made to the Governor, Comptroller and Attorney General, and upon further application of any of said companies to the Governor for a further issue of State bonds in payment of the State's subscription a like certificate shall be required by him from the said commissioners, before issuing the same that they are satisfied by the oath of the president and treasurer of said company, as heretofore provided, that an additional amount of the capital stock of said company, specifying the sum that has been *bona fide* paid in by the individual stockholders, and is intended to be *bona fide* applied to the further construction of said road; and upon receiving said report if the Governor, Comptroller and Attorney General shall be satisfied that no fraud has been practised by said company it shall in like manner be the duty of the Governor to issue the bonds of the State for the benefit of said company for an amount equal to the further additional sum paid in by the individual stockholders; and the like proceeding

Commissioners
to certify.

*Bona fide pay-
ments.*

shall be had on each subsequent application by any of said companies to the Governor for the further issue of the bonds of the State before the Governor shall be authorized to issue the bonds of the State for the benefit of any of said companies; *Provided*, That the Governor shall not be bound to issue bonds in any case unless the Comptroller of the Treasury and Attorney General of the State shall concur with him and be satisfied of the propriety and correctness thereof.

Issuance of Bonds. SEC. 11. *Be it enacted*, That wherever any internal improvement company in this State in which the State has heretofore become a subscriber under the existing laws shall *bona fide* perform work in the construction of any Rail Road or Turnpike company which has been incorporated to the amount of fifteen *per cent* or more on the capital stock of said company and the same shall be certified to the Governor, Comptroller and Attorney General by three respectable and disinterested persons to be appointed by the Governor to examine the same as provided in the foregoing sections of this act and shall be approved by them it shall be deemed and taken as a payment on the part of the company, and the Governor shall thereupon issue the bonds of the State for an equal amount of the State's stock in said company.

Bonds to be deposited in Bank. SEC. 12. *Be it enacted*, That any bonds which have been or which may hereafter be issued to any internal improvement company and deposited by the Governor in the Bank of Tennessee for the use of such company, shall on demand being made therefor, be delivered by the Bank of Tennessee to such company, or at the option of the Bank be retained by paying the amount of such bonds to the company for whose benefit they were issued; *Provided*, That the semi-annual interest on all the bonds of the State hereafter to be issued for the benefit of any internal improvement company shall become due and payable on first day of January and on the first day of July in each year, and at no other time.

Pay of Commissioners. SEC. 13. *Be it further enacted*, That whenever commissioners shall be appointed under the provisions of this act they shall be entitled to receive the sum of two dollars and fifty cents per day for each and every day they shall be engaged in the discharge of the duties for which they may be commissioned.

Of deficit interest. SEC. 14. *Be it enacted*, That the twentieth section of an act entitled "an act to establish a State Bank, to raise a fund for internal improvement, and to aid in the establishment of a system of education" shall not be so construed as to require the Governor of the State, to call upon one internal improvement company for the *deficit* interest upon the bonds issued for the benefit of another company; but each company shall be bound for the interest when there shall be a *defi-*

cit upon the bonds issued to the companies severally, provided nothing herein contained shall be so construed as to interfere with the vested rights of any internal improvement company in this State.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed Jan. 25th, 1840.]

CHAPTER II.

An Act to make more public an act passed December 11th, 1837, establishing De Kalb county.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the act passed 11th day of December, 1837, establishing De Kalb county, but which was not published in the book purporting to contain all of the acts passed by the General Assembly of Tennessee during their regular session in 1837-8, is hereby declared to be in full force, and every thing done in accordance with the provisions of said act since its passage, is declared to be as valid and binding as if said act had been published in the book containing the acts passed in 1837-8. Act of 1837.

SEC. 2. Said act is in the following words, viz: "An act to establish the county of De Kalb, in honor of Baron De Kalb, the friend of American liberty, who fell at the battle of Camden in the war of the Revolution."

"SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That a new county is hereby established of parts of Cannon, Franklin, White and Jackson counties, to be called De Kalb, in honor of Baron De Kalb, the friend of American liberty, who fell at the battle of Camden, in the war of the Revolution.

"SEC. 2. The county of De Kalb shall be bounded as follows, viz: beginning at the corner between Smith and Cannon counties, on the Wilson county line, near Alexandria, and running thence south twenty-three degrees east, with the old line between Smith and Wilson counties, eight miles to a point in said line; thence south forty-eight degrees east, eleven miles and three quarters, to the Warren county line at John Martin's; thence north eighty-three degrees east, seven miles to a point twelve miles north from M'Minnville; thence south eighty degrees east, four miles and three quarters, to Caney fork river, at the mouth of Barren creek; thence down said river with its meanders to the mouth of Townsend's creek; thence to an Oak on the Boundaries of De Kalb.

road from Sparta to Dibrell's ferry, four miles from said ferry; thence north thirty-seven and a half degrees east, nine miles and three fourths, to a point on the stage-road from Sparta to Carthage; thence north two miles, to a corner between White and Jackson counties, on Cane creek; thence south seventy-five degrees west, sixteen miles and a half, so as to strike the north-west corner of Cannon county, on the Caney fork river; and thence with the line run by Thomas Durham, between Smith and Cannon counties, to the beginning.

Administration
of justice.

"Sec. 3. For the due administration of justice in the said county of De Kalb, the different courts shall be holden at the house of Barnard Richardson until the seat of justice for said county shall be located, and a suitable house erected for that purpose. The county court shall, in the intermediate time, have full power to adjourn the courts to such other place in the said county as they may deem better suited for the holding of the same, and for the public convenience, and to adjourn to the seat of justice whenever, in their judgment, the necessary arrangements are made, and all writs and other precepts returnable to either place shall and may be returned to the place to which said courts may have been removed by the county court aforesaid, and the said courts to be holden in and for said county of De Kalb shall be under the same regulations and restrictions, and shall have, hold, exercise and possess the same powers and jurisdiction as are possessed by said courts in other counties in this State.

Civil and military
officers.

"Sec. 4. All civil and military officers in said county of De Kalb may hold their office, and discharge the duties of the same, during the time for which they were elected; and should there be vacancies in said county of De Kalb, such vacancies shall be filled as the law directs, and it shall be the duty of the sheriff of Cannon county to hold elections to fill the same until a sheriff shall be elected for De Kalb county; and if any civil district or districts should be divided, by the lines of the said county of De Kalb passing through them, it shall and may be lawful for the county court of said county, and the courts of the several counties from which said county has been taken, to attach the said fractions to other districts in their respective counties, or form a district or districts of one or more fractions, as said courts may think proper; and the said county of De Kalb shall be placed upon an equal footing, possess equal powers and privileges, in all respects, as other counties in this State: *Provided*, nothing in this act contained shall be so construed as to prevent the counties of Cannon, Warren, White and Jackson from entering up judgments, or the sheriffs of said counties from selling under such judgments any lands within the bounds of said county of De Kalb for taxes, cost and

charges for the present or any preceding year, nor to prevent the sheriffs of either of said counties from collecting from the citizens of said county of De Kalb any taxes due for the present or any preceding year.

"Sec. 5. It shall be the duty of the sheriff of Cannon ^{Duty of sheriff} county, with the power to appoint as many deputies as may be necessary, to hold an election in all the precincts in said county of De Kalb, on the first Friday in February next, for the election of one sheriff and all other county officers to which other counties in this State are entitled, whose elections are required to be submitted to the voters of the whole county; and the said officers, when elected, shall be commissioned in the same manner, and have the same powers, duties and emoluments as other officers of the same grade and denomination in other counties in this State.

"Sec. 6. The first term of the county court in said coun- ^{Opening of c'ty court.} ty shall commence on the first Monday in March next, during which term said court shall put in nomination two or more places for the location of the seat of justice in said county; and the sheriff of said county, by himself and deputies, or such persons as he may appoint, shall open and hold an election between all places put in nomination, at each precinct in each civil district, on the third Friday in April next; and it shall be the duty of the said sheriff to advertise said election for a seat of justice, at least thirty days previous to the day of election, in at least two public places in each civil district in said county, which advertisement shall fully specify the places put in nomination by the county court, and if any citizen or citizens of said county may desire the seat of justice for said county to be at any place not put in nomination by the county court, any additional places may be put in nomination by any citizen or citizens of said county, at any period previous to, or on the day of election; *Provided*, that the seat of justice shall not ^{Location of seat of justice.} be more than two and a half miles from the centre of said county. In every thing pertaining to the opening and holding said election, the sheriff and his deputies, and all others assisting to hold the election in each of the districts, shall conform to, and be governed by the laws now in force, in relation to the holding of elections for members of the General Assembly of this State; and every man shall be entitled to vote in said election who shall be, at the time of voting, a citizen of said county of De Kalb, and twenty-one years of age. The votes polled in said election shall be compared by the sheriff on Saturday, the next day after the election, in the presence of the county and circuit court clerks, or any two justices of the peace for said county, at the house of Barnard Richardson, the place designated in this act for holding courts in said county; and if it shall appear that a majority of the votes have been given for any

one place, that place shall be the county seat. But should it appear that no one place has been voted for by a majority of all voting in the election, then the sheriff, within thirty days thereafter, shall hold another election between the two places which received the highest number of votes, having given at least ten days notice, by advertisement, as required before the first election; and whenever it shall appear that a majority of all the votes given at either election hereby authorized were in favor of one place, that place shall be the seat of justice of said county of De Kalb, and shall be called Smithville.

County court to
appoint commis-
sioners.

"SEC. 7. At the first term of the county court after the seat of justice shall have been established, as required by this act, it shall be the duty of the county court to appoint five commissioners, whose duty it shall be to procure, by purchase or otherwise, at least fifty acres of land at said county seat, for which they shall cause a deed or deeds to be made to themselves, or their successors in office, by general warranty, and on said fifty acres of land said commissioners shall immediately proceed to lay off a town, with as many streets and of such width as they may deem necessary, reserving at least two acres for a public square, and a lot sufficient for building a jail.

Commissioners
shall sell lots.

"SEC. 8. The said commissioners, appointed by the county court, shall sell the lots in said town, on a credit of at least twelve months, first giving due notice thereof in one or more newspaper printed in this State; and shall take bonds, with approved security, for the purchase money, payable to themselves, and their successors in office, and shall make titles in fee simple, as commissioners, to the respective purchasers of said lots.

Proceeds of sales
of lots.

"SEC. 9. The proceeds of the sales of the lots aforesaid shall be a fund in the hands of said commissioners for defraying the expenses incurred in the purchase of the said tract of land on which the said county seat is located, and also for defraying the expenses of erecting public buildings.

Court-house,
jail, &c.

"SEC. 10. The said commissioners shall superintend the building of the court-house, jail, and other necessary public buildings, and shall let out such buildings as the county court in said county shall order to be built, upon such terms and conditions as the said court shall direct, and shall take bond, with sufficient securities, from the person or persons to whom the same is let, payable to themselves and their successors in office, in the sum of ten thousand dollars, conditioned for the faithful performance of his or their contracts.

Bond and oath
of commission-
ers.

"SEC. 11. The said commissioners, before they enter upon the duties of their office assigned them by this act, shall take an oath or affirmation that they will truly and faithfully execute and perform the different duties by this act enjoined on them, according to the best of their judg-

ment; and moreover, shall enter into bond, with approved security, payable to the chairman of the county court of De Kalb county, and his successors in office, in the sum of five thousand dollars, conditioned for the due and faithful performance of the duties enjoined upon them by this act, which bond shall be deposited in the office of the county court clerk in said county, and shall not be so construed as to make one of the commissioners security for another.

"Sec. 12. The said commissioners shall keep a fair and Their duty. regular statement of all the monies by them received and expended; which statement, when required, shall, from time to time, be laid before the county court. And when all the necessary public buildings are completed, the said commissioners shall, by order of the county court, pay over all surplus money to the county trustee for county purposes, and they shall be allowed by the county court a reasonable compensation for their services.

"Sec. 13. The said commissioners, in laying off the Houses of public town, shall also reserve as many lots as they may deem ne- worship. cessary, to be given to the different religious denominations, on which to erect houses of public worship, and also a lot for a public burying ground; and said commissioners shall also reserve lots for a male and female academy, of such size as they may think necessary.

"Sec. 14. *Be it enacted*, That the county of De Kalb Courts. be, and the same is hereby attached to the 13th Judicial circuit, and the courts therefor shall be held by the Judge of said circuit on the first Mondays of January, May and September of every year.

"Sec. 15. *Be it enacted*, That said county of De Kalb Chancery district. is hereby attached to the Chancery district composed of the county of Smith, and the courts therefor shall be holden at Carthage, as heretofore provided.

"Sec. 16. *Be it enacted*, That the said county of De Militia. Kalb shall form one regiment, and that said regiment, in all its relations to the militia of this State, shall assume the place of the 141st regiment, at present in Cannon county, and shall take the number of said regiment in Cannon county.

"Sec. 17. *Be it enacted*, That the field officers included Field officers. in said county of De Kalb, shall meet at the house of Barnard Richardson, on the second Friday in February next, and divide said regiment into battalions and companies, and provide for electing all officers in said regiment, where there may be vacancies, in the manner pointed out, and as provided for by the militia laws of this State.

"Sec. 18. *Be it enacted*, That it shall be the duty of the Duty of sheriff. sheriffs for the counties of Cannon, Jackson, White and Warren, each, at the different precincts hereby stricken from his county, to open and hold an election on the second Friday in January next, in the same manner as herein pro-

vided for, the election of a county seat for said county of De Kalb, and the votes given in each fraction of a county taken off in the formation of said county of De Kalb shall be compared by the sheriff holding said election, at the house of Barnard Richardson, on Saturday, the next day after said election; and if a majority voting in each fraction shall vote in favor of being attached to and included in said county of De Kalb, said county of De Kalb shall be considered as established; but if a majority in either fraction shall vote against being included in said county of De Kalb, this act establishing it shall then be void. In the formation of said county, no county from which a part may be taken shall be reduced below its constitutional amount of territory, and the voters stricken off from White county shall vote at Davis', Dibrell's, and Henry P. Burton's.

JOHN COCKE,

Speaker of the House of Representatives.

TERRY H. CAHAL,

Passed December 11th, 1837.] *Speaker of the Senate."*

Re-enactment.

SEC. 3. The re-enacting and re-publication of the act above recited shall not in any way be taken to invalidate any portion of a supplemental act or amendments to the same passed at the last session of the General Assembly of Tennessee.

SEC. 4. *Be it enacted*, That the county of De Kalb, as organized under the act above recited, and the acts referred to; is hereby declared to be established as one of the lawful and constitutional counties of this State, according to the provisions of this and the aforesaid acts.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOS. LOVE,

Speaker of the Senate.

CHAPTER III.

An Act to authorize the County Courts to purchase and hold sites for offices for Clerks of the County Courts, and other County officers.

Offices of county
court clerks.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the County Courts of the several Counties, a majority of the justices thereof being present and voting therefor, shall be authorized to purchase and hold suitable sites for offices for the Clerks of the County Courts and such other County officers as may be deemed expedient by said Court.

SEC. 2. That conveyances of such sites be made to the chairman of the County Courts respectively, and their successors in office forever, for the use and benefit of the Counties respectively purchasing the same.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOS. LOVE,

Passed October 30th, 1839.]

Speaker of the Senate.

CHAPTER IV.

An Act to repeal the second section of an act entitled an act to extend the corporation of the town of Murfreesborough for certain purposes, passed the 28th day of December, 1837.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the second section of the above recited act be, and the same is hereby repealed.

SEC. 2. *Be it enacted,* That the officers of the Mayor's Court, established by the said second section of the above recited act, pay over to the treasurer of the next board of aldermen all the taxes, fines, and monies that may have come into their hands, or which may hereafter come into their hands, for the use of said corporation.

Murfreesboro'
Mayor's court.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOS. LOVE,

Passed November 7th, 1839.]

Speaker of the Senate.

CHAPTER V.

An Act to extend the terms of the Circuit Courts for Sevier County, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Circuit Court of Sevier County shall be held on the first Mondays of April, August and December in every year, and shall continue two weeks at each term, unless the business of said court be sooner disposed of.

Circuit court of
Sevier.

SEC. 2. *Be it further enacted,* That the Circuit Court of Cocke County shall be held on the fourth Mondays of March, July and November in every year, and shall, if the business require it, continue two weeks, when that length

Circuit court of
Cocke.

of time intervenes between the Circuit Courts of Cocke and Sevier.

SEC. 3. *Be it further enacted*, That the first Circuit Courts to be held in the Counties above mentioned, shall, after the first day of January next, be held at the times and as prescribed by this act.

JONAS E. THOMAS,
Speaker of the House of Representatives.
THOS. LOVE,

Passed November 22d, 1839.] *Speaker of the Senate.*

CHAPTER VI.

An Act to ascertain and equalize the prison bounds throughout the State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the prison bounds for the confinement of debtors in each of the counties in this State, shall be one mile square, and no more, including the court-house and jail; and the county courts and quorum courts in the different counties are hereby directed to have the prison bounds surveyed, and the limits thereof ascertained accordingly, which survey shall be returned to the county court and entered upon the minutes.

SEC. 2. *Be it enacted*, That in laying off the prison bounds as aforesaid, or causing the same to be done, the county courts may depart from the precise form of a square, where natural objects or other obstacles intervene so as to make it inconvenient for the court to have the bounds in the form of a square. And the county courts are hereby authorized to lay off the prison bounds in any convenient form, provided the space does not exceed a mile square, or what is equal to a mile square.

JONAS E. THOMAS,
Speaker of the House of Representatives.
THOS. LOVE,

Passed November 20th, 1839.] *Speaker of the Senate.*

CHAPTER VII.

An Act to allow an additional civil district to counties in this State, under certain restrictions.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the county court of any county in this State, two-thirds of the justices being present, shall have power to lay off and establish one or more civil districts in said county, in addition to the number now established in said county: *Provided,* said increase does not make the whole number of civil districts in any county more than twenty-five, or four for every one hundred square miles.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOS. LOVE,

Passed November 23d, 1839.]

Speaker of the Senate.

CHAPTER VIII.

An Act to amend an act entitled an act to dispose of the lands in the Ocoee District, passed the 29th of November, 1837.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That all and every person or persons in the actual possession of any vacant and unappropriated quarter or fractional quarter section of land in the Ocoee District, or his or her or their rightful assignee or assignees, shall, from and after the passage of this act, be entitled to a preference or priority of entry upon such quarter or fractional quarter section, at such prices, and at such times, and with such other benefits, and under such other restrictions, as are prescribed by the act which this act is intended to amend: *Provided,* nothing in this act contained shall be construed to abridge the right and benefits secured to occupants by said amended act; *and provided further,* that when two or more occupants shall present themselves before the entry taker of said District, claiming the benefits of this act, the person or persons, his or her or their rightful assignee or assignees, who was or were first so in the actual possession, shall be entitled to the entry, to be determined by the entry taker, from the depositions produced to prove such occupancies and possessions; and where it shall appear that such occupants shall have become so possessed on the same day, they shall draw lots for the preference of entry aforesaid in the presence of said entry taker; *provided further,* that if any improvement or improvements, made by any oc- to be paid for.

cupant or occupants at the time of the passage of this act, shall hereafter be entered by any other occupant or general enterer, such enterers shall pay to the occupant whose improvement shall be so entered the value of such improvement, under the rules, regulations and restrictions prescribed in the act hereby amended.

SEC. 2. *Be it enacted,* That any person or persons wishing to enter less than a quarter section of land in said District, shall, from and after the passage of this act, be entitled to enter eighty acres in an oblong entirely across the quarter or fractional quarter, or forty acres in a square in one corner of the quarter or fractional quarter, and in all cases beginning at one corner of the quarter or fractional quarter, with all the benefits, and under all the restrictions of this act and the act this act is intended to amend.

SEC. 3. *Be it enacted,* That whenever any person or persons who have entered, or may enter, any land in the office of the entry taker of the Ocoee District, shall apply to the entry taker for a certified copy of such entry, for the purpose of obtaining a grant thereon, it shall be lawful for the entry taker, and he is hereby required to demand and receive payment, in addition to his own fees, the fees of the Register and the fees of the Secretary of State accruing thereon for perfecting the title on such entry, and said entry taker shall account for the same to the Register of the Ocoee District and the Secretary of State respectively.

SEC. 4. *Be it enacted,* That the entry taker of the Ocoee District is hereby authorized to procure some suitable person to draw and make a copy of the general plan of the Ocoee District, now in his office, of a larger size, and upon an enlarged scale, and that he procure to be marked upon such copy the ranges, townships, sections, quarter sections and fractions, also the names of the enterers, the quantity of acres entered, and the price at which entered, and that said entry taker shall, after such copy shall be completed, keep the same in his office for the inspection of the people, and he shall thereafter mark on such copy the names of the enterers, the quantity of land entered, and the price at which entered, according to the provisions of the act this act is intended to amend; and the entry taker is hereby authorized to pay such reasonable price to the surveyor or artist for making such copy, as he may believe to be just, out of any entry monies in his hands, and for which the entry taker shall be credited in settlement.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOS. LOVE,

Speaker of the Senate.

Passed November 28th, 1839.]

CHAPTER IX.

An Act to extend the corporate limits of the town of Fayetteville, in Lincoln county.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the limits of the corporation of the town of Fayetteville, in Lincoln county, in this State, be extended, by commencing at the south-west corner of lot No. 18, in the plan of said town, running thence south twenty poles, thence east twenty poles, thence north twenty poles, to the south-east corner of lot No. 27, in the original plan of said town, and that said ground so included within the corporation of said town, be divided into four lots of equal parts, which shall be known and designated in the plan of said town as follows, to wit: the north-east as lot No. 129, the north-west as lot No. 130, the south-west as lot No. 131, and the south-east as lot No. 132.

SEC. 2. *Be it enacted*, That the ground included in the corporation of said town of Fayetteville by this act, and all persons residing thereon, shall be subject to all the laws and ordinances of the corporate authorities of said town, and entitled to all the rights, benefits and privileges thereof, as those included within the original corporate limits of said town.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOS. LOVE,

Passed November 11th, 1839.]

Speaker of the Senate.

CHAPTER X.

An Act to establish the County of Polk.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That a new county be, and the same is hereby established, by taking a part of the counties of M'Minn and Bradley, to be known and distinguished by the name of Polk county, in honor of his Excellency James K. Polk, Governor of the State of Tennessee.

SEC. 2. *Be it enacted*, That the beginning corner of the county of Polk, hereby established, shall commence at the Georgia line, due south of the Boat Yard, on Conasauga river, then to the Boat Yard, thence in a north-easterly direction, in a straight line to James Foreman's old place, in Bradley county, then with the Armstrong ferry road to Armstrong's ferry, on Hiwassee river, then across the river

and running with said road to the place where the line of the seventeenth civil district crosses the road in M'Minn county, then running with said district line until it strikes the boundary line between the Ocoee district and the Hiwassee district, then north to the corner of fractional township one and two north in range three east of the base line in said Ocoee district, then with said fractional township line south seventy degrees east to the North Carolina boundary line, then with said line to the Georgia line, then with the Georgia line to the beginning.

Administration
of justice.

SEC. 3. *Be it enacted,* That for the administration of justice for the said county of Polk, the several courts thereof shall be held therein at the town of Columbus, until the seat of justice for said county shall be located; and after the seat of justice shall be established, as hereinafter provided, for said county, the justices of the peace within said county, a majority being present, may at any county court thereafter held in said county, adjourn the sessions of said court to meet at the county seat to be so established, and the county courts and circuit courts shall thereafter be held at the county seat so adjourned to at such times as shall be prescribed by law. And all writs, recognizances, and other process made returnable to either of said courts at the town of Columbus, shall, after such adjournment made as aforesaid, be returned to said courts respectively at said county seat, and shall be as good and valid, and have all the legal effect as if on the face thereof they, any, or either of them had been made returnable to such county seat; and the said courts to be holden in and for said county of Polk, shall be under the same rules, regulations and restrictions, and shall have, hold, exercise and possess the same powers and jurisdictions as are incident by law to the same courts in other counties in this State; and said county shall be attached to and form a part of the third Judicial circuit, and the circuit courts of said county shall be holden on the second Mondays of February, June and October, and at each term shall continue in session for one week, unless the business on the docket thereof shall be sooner disposed of: *Provided,* nothing in this act contained shall be so construed as to prevent the several courts of M'Minn and Bradley counties from entertaining and exercising jurisdiction in all causes now pending or shall be pending in said courts at the time said county of Polk shall be organized as herein provided.

Civil and military
officers.

SEC. 4. *Be it enacted,* That it shall be lawful for all officers, civil and military, within the bounds of said county of Polk, to hold their offices, and to exercise all the powers and authority by law appertaining thereto, until other officers shall be elected as provided by this act. The county of Polk shall elect her officers on the same day, and under the same rules and regulations, and in the manner provided by

law for the election of such officers in other counties in this State, and shall be placed on equal footing, and possess equal powers and privileges in all respects with other counties in this State: *Provided*, nothing in this act contained shall be so construed as to deprive said counties of Bradley and M'Minn from having and exercising jurisdiction, as heretofore, over the territory included within the bounds of said county of Polk until the organization thereof as provided in this act: *and provided further*, that nothing herein contained shall be so construed as to prevent the sheriffs of M'Minn and Bradley counties from levying within said county of Polk, so taken from either county respectively, for taxes that may be due them, and selling for the same; *and provided*, the courts of M'Minn and Bradley counties shall, as heretofore, have power and authority to enter up judgments and condemn lands to sale within the limits of Polk county aforesaid for any taxes that may be due on the same to said sheriffs of M'Minn and Bradley respectively.

SEC. 5. *Be it enacted*, That John Towns, Jonas Hoyl, James Hawkins, Andrew Stevenson, Erbey Boyd, John Williams, Allen Armstrong, Thomas Harper and John F. Hannah be, and they are hereby appointed commissioners, Commissioners for holding elections. a majority of whom shall have authority to act, who shall, on the first Saturday of February, 1840, first giving twenty days notice at four of the most public places in the said county of Polk, open and hold an election for the purpose of fixing upon a suitable site for the county seat of said county; all those residing within the bounds of said county, who are entitled to vote for members of the General Assembly, shall be entitled to vote in selecting said site, and said election shall be held at seven several places, to be designated in said county, for the convenience of voters, by said commissioners in the notice of the election herein required to be given; and it shall be the duty of the commissioners to select and put in nomination, to be voted for, two of the most eligible sites in their estimation for such county seat in said county, and the place receiving a majority of all the votes taken shall be, and the same is hereby established the county seat of said county of Polk, and said commissioners are hereby authorized to appoint suitable persons, and to administer to them the proper oaths, as officers and judges, to open and hold the election at the several places that may be appointed to vote, and to make return of the polls to the town of Columbus, where they shall be compared on the Monday next succeeding the day of election.

SEC. 6. *Be it enacted*, That said commissioners are hereby authorized to purchase or otherwise procure a sufficient quantity of land, upon which to lay off a town, and to erect all necessary public buildings for said county, at the place Commissioners to purchase land

selected by the qualified voters as aforesaid, and the commissioners shall take, to themselves as commissioners of the county of Polk, and their successors in office, a deed or deeds of conveyance, with general warranty, for the lands by them so purchased or otherwise obtained.

County seat.

SEC. 7. *Be it enacted*, That it shall be the duty of the commissioners herein appointed to cause a town to be laid off at said county seat into lots, streets and alleys, of such size and width as they may deem necessary and proper, reserving a sufficient quantity of land for a public square and for the public buildings, and when so laid off the town shall be called and known by the name of Benton, in honor of the Honorable Thomas H. Benton, a Senator in the Congress of the United States.

Lots, how sold.

SEC. 8. *Be it enacted*, That it shall be the duty of the commissioners of said county of Polk to sell all the lots in said town of Benton upon a credit of twelve months, after first giving thirty days notice of the time and terms of said sale in one newspaper at Athens, and one in Knoxville; and the commissioners shall take bond, with sufficient security, from the purchasers of said lots, payable to themselves as commissioners as aforesaid, and their successors in office, and they are hereby authorized and empowered to make to the purchasers of said lots titles in fee simple for the same.

Proceeds of sales

SEC. 9. *Be it enacted*, That the proceeds of the sales of the lots aforesaid shall be a fund in the hands of said commissioners to defray the expenses incurred in the purchase of the lands upon which said town may be located, and also the expenses of erecting the public buildings of said county.

Court-house,
jail, &c.

SEC. 10. *Be it enacted*, That said commissioners shall superintend the erection of the court-house and jail, and other necessary public buildings in said county; and they are hereby authorized and empowered to let out and make contracts for the erection of such public buildings as shall be ordered by the county court of said county, a majority of said justices being present, and upon such terms and conditions as said court, a majority being present, shall direct; and the commissioners aforesaid shall take bond, with sufficient security, from the contractor or contractors, in such penalties as said court shall prescribe, payable to themselves as commissioners of the county of Polk as aforesaid, and their successors in office, conditioned for the faithful performance of such contract or contracts as the case may be.

Commissioners
to report.

SEC. 11. *Be it enacted*, That it shall be the duty of said commissioners to report all proceedings by them had under this act to the first county court of said county of Polk, to be holden therein after the first day of September next, and it shall be the duty of said court to enter the same upon their records.

SEC. 12. *Be it enacted,* That said commissioners, before they enter upon the duties of their office, shall take an oath before some judge or justice of the peace, to honestly and faithfully perform the duties assigned them by this act, to the best of their judgment, and they shall moreover enter into bond, with approved security, in the penalty of five thousand dollars, payable to the chairman of the county court of Polk county, and his successors in office, conditioned for the due and faithful performance of the duties enjoined upon them by this act, and for the just application or forthcoming of such funds as shall come to their hands as commissioners aforesaid. Bonds of commissioners.

SEC. 13. *Be it enacted,* That said commissioners shall keep a regular and fair statement and account of all monies by them received and expended, which statement shall, from time to time, when required by the county court of Polk county, be laid before said court, and when the public buildings of said county shall be completed, said commissioners shall, by order of said court, pay over any surplus money that may be in their hands, to the county trustee of said county, for county purposes, and they shall be allowed for their services such reasonable compensation as shall be adjudged them by said county court. Their duty.

SEC. 14. *Be it enacted,* That should any vacancy happen in the board of commissioners hereby appointed, by death, resignation, or refusal to act, of any one or more of said commissioners, the county court of said county, a majority of the justices being present, is hereby authorized, from time to time, to fill such vacancy by appointing another, who shall take a similar oath and enter into a similar bond to that herein prescribed for the other commissioners. Vacancies in the board.

SEC. 15. *Be it enacted,* That Abram Lillard, James M'Kamy, William Shields, Samuel Parks, John S. O'Neal, ——— Wells and Jacob Moore, or a majority of them, shall have power and authority, and they are hereby appointed commissioners to lay off said county into seven civil districts, in which there shall be elected justices of the peace and constables at the time prescribed by law for electing such officers in other counties in this State. Civil districts.

SEC. 16. *Be it enacted,* That David Ragan is hereby authorized and empowered to open and hold an election in each civil district in said county of Polk for sheriff, county and circuit court clerks, county trustee, county register, and other county officers authorized by the constitution to be elected by the people, on the same day prescribed by law for the election of such officers in other counties; and before he enters upon the duties of his appointment, he shall take an oath faithfully and honestly to perform the duties herein enjoined upon him, and he is hereby authorized and empowered to appoint as many deputies as may be necessary Election of civil officers.

to assist him in holding said election, the polls of which shall be compared at the town of Columbus.

Commissioners
to enter two qr.
sect'ns of Ocoee
lands.

Sec. 17. *Be it enacted*, [That] the commissioners of the county of Polk be, and they are hereby authorized, at any time after the passage of this act, to select two quarter sections of land in said county of Polk, which may be vacant and unappropriated, and to which there may be no *bona fide* occupant claimant or claimants, and said commissioners shall notify the entry taker of the Ocoee district of such selection, and it shall be the duty of said entry taker to mark such quarter sections upon his general plan, as selected by said commissioners, and said quarters shall not thereafter be subject to the entry of any other person or persons, but said commissioners may, at any time before the first day of August, 1841, enter said quarter sections in said entry office in their names, as commissioners of the county of Polk, upon paying to the entry taker at the time of such entry twenty-five cents per acre for land so entered; and it shall be the duty of the register of the Ocoee district, upon such entry, to issue to said commissioners, and their successors in office, a grant or grants for said lands, which lands the commissioners aforesaid are hereby authorized to dispose of or appropriate in such manner as they may deem most advisable for the purpose of aiding in making the public buildings in said county.

Dividing lines

Sec. 18. *Be it enacted*, That James M'Kamy be, and he is hereby appointed, to run and mark the lines in this act designated dividing the counties of Bradley and M'Minn from the county of Polk, and he shall receive for his services such compensation as shall be allowed him by the county court of Polk, to be paid him by the commissioners of said county, out of any monies that may be in their hands belonging to said county of Polk.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOMAS LOVE,

Passed November 28th, 1839.]

Speaker of the Senate.

CHAPTER XI.

An Act to amend the act of 1827, chapter 30th, entitled an act in relation to the change of venue in criminal causes.

Change of venue SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That when any criminal case shall be pending before any of the courts, and the judge presiding shall, upon an attempt to select and empanel a jury for the

trial of said criminal or criminals, be of opinion that a fair and impartial trial cannot be had in the county where the cause is then pending, the said judge shall and may order the venue of said cause to be changed to the nearest county, free from the like exceptions, within the district; *Provided*, that nothing in this act contained shall deprive the prisoner of the right to a continuance for the causes specified in the said act of 1827, chapter 30th.

SEC. 2. *Be it enacted*, That when the venue of any criminal cause shall under this act be changed, it shall be the duty of the clerk of the court changing the venue to make out a full and complete transcript of the record and proceedings in said cause, and transmit the same to the clerk of the court to which said venue is changed, which said transcript shall be entered in full upon the minutes of said court. Clerk of the court.

SEC. 3. *Be it enacted*, That upon the change of venue as provided in this act, if the crime charged be not bailable, or if bailable and the prisoner cannot give bail, the judge shall and may order the removal of the prisoner to the jail of the county whither said venue is changed; *Provided* said jail be insufficient, the court may order the confinement of said prisoners in any other sufficient jail nearest to the county into which said cause is to be tried by the change of venue. Judge to remove prisoners.

SEC. 4. *Be it enacted*, That each judicial circuit is hereby declared and made districts for the trial of criminal causes.

SEC. 5. *Be it enacted*, That so much of the act of 1827, chapter 30, which this act is intended to amend, and is repugnant to or inconsistent with the provisions of this act, be, and the same is hereby repealed. Act of 1827.

SEC. 6. *Be it enacted*, That it shall be the duty of the court changing the venue to take the recognizance of the prosecutor, the witnesses in behalf of the State, and the prisoner, to appear at the trial of the cause in the court to which the venue is changed, and also to take the recognizance of the witnesses in behalf of the prisoners; *Provided*, that in all cases where it shall become necessary under the provisions of this act to change the venue, the defendant shall have the privilege to choose and elect to which county in the district or circuit his cause shall be changed for trial; *provided*, should the criminal decline or refuse to make such election, then the court shall determine to what county the cause shall be removed for trial. Duty of the court.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOS. LOVE,

Passed November 28th, 1839.] *Speaker of the Senate.*

CHAPTER XII.

An Act giving further time for surveying entries and obtaining grants.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That until the first September, 1841, be allowed the enterers of land, and the assignees of enterers, north and east of the congressional reservation line, and north of Tennessee river, upon entries heretofore made under the several acts providing for the entry of land, to have their entries surveyed; and the further time of two years, from and after the passage of this act, to have such surveys granted; and if such surveys shall not be made and grants obtained thereon, as provided in this act, such entry or entries and surveys, as the case may be, shall be null and void as against subsequent enterers; *Provided,* that nothing in this act shall be so construed as to deprive any person of rights which may have accrued to him or her under an act entitled an act giving further time for surveying entries and obtaining grants thereon, passed November 29, 1837.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOS. LOVE,

Passed November 28th, 1839.] *Speaker of the Senate.*

CHAPTER XIII.

An Act for the relief of Thomas Sherley, of Hamilton county.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That on the application of Thomas Sherley, and at his cost, it shall be the duty of the surveyor general of the Ocoee district to re-survey and mark the north-east fractional quarter of fractional section thirty-two, fractional township four, range three, west of the basis line in the Ocoee district, and if, upon a re-survey of said fractional quarter, it shall be ascertained to contain less than five acres, it shall then be the duty of said surveyor to report the exact quantity of land in said fraction to the entry taker of said district, who shall mark on his map the quantity of land so reported to him, and shall give to the said Thomas Sherley a certificate of the quantity of land so found to be in said fractional quarter, and the price per acre at which it was sold by the State to said Sherley.

Sec. 2. *Be it enacted,* That for the deficiency, if any, so found as aforesaid in said fractional quarter, the Branch-

Bank of Tennessee at Athens shall pay to said Thomas Sherley, upon the presentation of said certificate, the amount per acre which he bid and paid for said land over and above the amount contained in said survey, which certificate, with said Sherley's receipt therefor, shall be good vouchers in settlement,

JONAS E. THOMAS,
Speaker of the House of Representatives.
 THOS. LOVE,

Passed December 2d, 1839.] *Speaker of the Senate.*

CHAPTER XIV.

An Act to repeal an act passed December 23d, 1837, chapter 40, declaring Buffalo river navigable up to Beardstown, in Perry county.

SECTION 1. *Be it enacted by the General Assembly of the* ^{Repeal.}
State of Tennessee, That the above recited act is hereby repealed, all laws to the contrary notwithstanding.

JONAS E. THOMAS,
Speaker of the House of Representatives.
 THOS. LOVE,

Passed December 2d, 1839.] *Speaker of the Senate.*

CHAPTER XV.

An Act to establish the County of Powell.

SECTION 1. *Be it enacted by the General Assembly of the* ^{Powell county.}
State of Tennessee, That a new county be and the same is hereby established, to be composed of fractions taken from the counties of Sullivan, Hawkins, Washington and Greene, and to be known and designated by the name of Powell county, in honor of Samuel Powell, one of the judges of the circuit courts of Tennessee.

SEC. 2. The county of Powell shall be bounded as fol- ^{Boundaries.}
 lows, viz: Beginning on the north bank of Holston river, ten miles from Blountville, running thence south sixteen degrees east three miles to a stake, south thirty-three degrees three miles and fifty poles to a stake, on the Sullivan and Washington line, thence with the same south seventy-seven degrees west, three miles and fifty poles, to a stake in Chase's field, south sixty degrees west, four miles and fifty-

Boundaries. four poles, to two black oaks corner, to the meridian of Jonesboro', south forty degrees west, four miles and sixty poles, to a stake on the line between the counties of Washington and Greene, thence with the Greene county line south eight miles to a stake, north thirty-nine degrees west, two miles and two hundred and fifty-eight poles, north fifty-eight degrees west, three miles and thirty-six poles, north seventy degrees west, three miles and a quarter, north eighty-three degrees west, three miles and a quarter, south eighty-three degrees west, three miles and a quarter, south sixty-three degrees west, three miles, south fifty-five degrees west, three miles, south forty degrees west, seven miles and a quarter, north forty-five degrees west, three miles, to the Hawkins county line, thence with said line north forty degrees east, nine miles, thence with the same south eighty-five degrees east, one and a half miles, thence with the same north forty degrees east, four and a quarter miles, south fifty-eight degrees east, one hundred and sixty poles, north sixty-seven degrees east, one hundred and sixty poles, south forty-five degrees east, one hundred and sixty poles, north seventy-eight degrees east, one hundred and sixty poles, to two pine trees on the top of Stone mountain, thence north two and a half miles, thence a direct line to the mouth of Shoal branch, on the north bank of Holston river, thence with the meanders of said river to the beginning.

Organization. **SEC. 3.** For the purpose of organizing the county of Powell, Joseph Smith and John Ball, Jr. from the county of Hawkins, James P. Hulse, Joshua Shipley and John Peoples, for the county of Sullivan, Terry White and Joseph B. Gilman, for the county of Washington, and Elijah Hendrick, Andrew English and James Shanks, for the county of Greene, shall be, and they are hereby appointed commissioners, who shall take an oath before some justice of the peace faithfully and impartially to discharge the duties enjoined upon them in this act; and in all cases of vacancy that may occur among said commissioners previous to the organization of the county court of Powell county, the same shall be filled by the other commissioners, and all vacancies occurring after the said organization, shall be filled by the county court of Powell county; the said commissioners shall enter into bond and security, to be approved by the county court of Powell county, and payable to the chairman thereof, in the sum of five thousand dollars, conditioned for a faithful discharge of their several duties. A majority of said commissioners shall constitute a board to do all things herein enjoined upon them; they shall keep a regular record of all their proceedings, as commissioners, which shall be returned to the county court of Powell county at its first session, and the same shall be recorded by the clerk

Commissioners.

The records.

thereof on the records of said court; and they shall make such other returns after the organization of said court as shall be directed thereby.

SEC. 4. It shall be the duty of the said commissioners, ^{Elections in fractions.} first giving ten days notice in one or more public places of the time and places, to open and hold an election at one or more places in each of the fractions proposed to be stricken off from the counties of Washington, Greene, Hawkins and Sullivan respectively, for the purpose of ascertaining whether a majority of the voters residing in the several fractions are in favor of, or opposed to the establishment of the county of Powell, and all persons qualified to vote for members of the General Assembly, who have resided in the fraction proposed to be stricken off six months immediately preceding the day of election, shall be entitled to vote, and each voter who desires to vote for the establishment of the new county, shall have on his ticket the words "New ^{Letter of tickets.} County," and those voting against the new county, shall have on their tickets the words "Old County;" and if, upon counting all the ballots, the judges of the several elections shall return that a majority of each of the fractions respectively have voted for the new county, then the county of Powell shall be, and the same is hereby declared to be a county, with all the powers, privileges and advantages, and subject to all the liabilities and duties with other counties in this State.

SEC. 5. If, from any cause, elections should not be held ^{Subsequent elections, if necessary.} in all or any of the fractions, as before directed, the said commissioners shall proceed, as soon as practicable, to hold said election so omitted to be held, in the same manner, and under the same regulations as specified in the foregoing section; and in like manner, if the said commissioners shall believe, upon an investigation (which they are hereby authorized to institute) into the manner of holding the several elections, that any improper or fraudulent practices have been permitted, they shall have power to declare the election so held in any fraction to be void, and proceed to hold another election in said fraction, first giving ten days notice in the manner herein prescribed.

SEC. 6. For the due administration of justice, the different courts to be holden in the said county of Powell shall ^{Administration of justice.} be held at the store-house of Gammon & Co., on the fall branch of Horse creek, until the seat of justice for said county shall be located; the county court shall, in the intermediate time have full power to adjourn the courts to such other place in said county as they may deem better suited for the holding of the same and for public convenience, and to adjourn to the seat of justice when in their judgment the necessary arrangements are made. And all writs and other precepts issuing from any of said courts returnable to

Writs, where
returnable.

either place, shall and may be returned to the place to which said court may have been removed by the county court aforesaid, and the courts for the county of Powell shall be under the same rules, regulations and restrictions, and shall have, hold, exercise and possess the same powers and jurisdictions as are prescribed by law for holding courts in other counties. Said county shall be attached to the first judicial circuit, and the circuit courts shall be held by the judge of said circuit on the first Mondays of February, June and October in each and every year, and the citizens of said county may file bills in chancery at either of the chancery courts held at Jonesboro', Rogersville or Greenville at their election.

First Judicial
circuit.

Civil and milita-
ry officers.

SEC. 7. All officers, civil and military, in said county, shall continue to hold their offices and exercise all the powers and functions thereof, until others are elected according to law; and the said county of Powell shall elect her officers on the same day and under the same rules, regulations and manners as provided by law for the election of officers in other counties in this State: *Provided*, that nothing in this act contained shall deprive the above named counties from having, holding and exercising jurisdiction over the territory composing the county of Powell, and the citizens thereof, in as full and ample a manner as they now have, until the election of county officers takes place according to law; *provided also*, nothing herein shall prevent the above named counties from entering up judgments, or the sheriffs of said counties from selling under such judgments, any lands within the bounds of said county of Powell for taxes, costs and charges, until the county of Powell is organized.

Persons to hold
elections.

SEC. 8. That the commissioners appointed by this act shall appoint such persons as they may deem of suitable qualifications, to open and hold the election for county officers for the said county of Powell, and such person so appointed shall be and hereby is invested with full power and authority to appoint deputies, clerks and judges, and by himself and deputies, to administer all necessary oaths, and to do and perform all other duties as by law are required of sheriffs or other officers holding similar elections.

Voting.

SEC. 9. The citizens of Powell county, in all elections for Governor, Representatives in Congress, members of the General Assembly, and Electors of President and Vice President, shall vote with the counties from which they have been respectively stricken off, until the next appointment, agreeably to the provisions of the fifth section of the tenth article of the Constitution.

Site for the seat
of justice.

SEC. 10. It shall be the duty of the commissioners aforesaid, as soon after the county of Powell shall have been established as practicable, to select and procure, by purchase or otherwise, a suitable site for the seat of justice in

said county, having due regard to the convenience and wishes of a majority of the citizens of said county; and the said commissioners, having first caused a deed to be made to themselves and their successors, with general warranty, to a sufficient quantity of land, including the site so selected, shall cause a town to be laid off thereon, with as many streets of such width as they may deem necessary, reserving a sufficient quantity of land for a public square. Said commissioners shall designate and reserve from sale one lot in said town on which to build the public jail of said ^{Jail.} county. Said town so laid off shall be known by such name as said commissioners may give to it. *Provided*, nothing in this section shall be construed to prevent said commissioners, if, in their opinion public sentiment shall require it, from opening and holding an election at four or more places in said county, first giving twenty days notice of the time and places, for the purpose of fixing upon an eligible site for the seat of justice in said county of Powell; and should such election be held, all qualified voters for members of the General Assembly shall be entitled to vote in selecting said site; should there be two or more places put in nomination and voted for, the place receiving a majority of all the votes taken in, shall thereupon be declared by said commissioners the seat of justice of Powell county: *provided*, said commissioners shall have the right to hold elections from time to time until one place receives a majority of all those voting.

SEC. 11. That the commissioners of said county shall ^{Sale of lots.} sell the lots in said town on a credit of at least twelve months, first giving due notice thereof in one or more newspapers, and shall take bond, with sufficient security, from the purchasers of said lots, payable to themselves and their successors in office, and shall make title in fee simple, as commissioners, to the respective purchasers of said lots.

SEC. 12. The proceeds of the sales of the lots aforesaid ^{Proceeds of sales} shall be a fund in the hands of said commissioners for defraying the expense incurred in the purchase of said tract of land on which the said seat shall be located, and also for defraying the expenses of erecting the public buildings for said county of Powell.

SEC. 13. The commissioners shall superintend the build- ^{Public buildings.} ing of such public buildings as the county court of said county shall order and direct to be built, and shall let the same out, and take bonds from the undertakers, with ample penalties and sufficient securities, payable to themselves and their successors, conditioned for the faithful performance of his or their contracts. That the balance, if any, of the proceeds arising from the sales of lots of the town herein authorized to be laid off and sold, remaining in the hands of the commissioners after defraying the expenses of

purchasing the site for the county seat, and the costs of the public buildings ordered to be built by the county court, shall be paid over by said commissioners to the trustee of said county of Powell, to be held, applied and accounted for by him as other county funds.

Civil districts. SEC. 14. The said commissioners shall also appoint five suitable persons as commissioners, whose duty it shall be to divide and lay off said county of Powell into civil districts, designate the place for holding elections therein, and do and perform all the duties relative thereto which by the laws of this State such commissioners are authorized or required to do.

Military. SEC. 15. The county of Powell shall form one regiment, which shall be known and designated as the 148th regiment, and shall be attached to the third brigade. The militia officer or officers highest in command included within said county of Powell, shall, at such time and place as he or they may determine upon, call all the commissioned officers together, and such of them as shall attend are hereby authorized and empowered to lay off said county into battalions and companies, and provide for holding elections for the purpose of electing all officers in said regiment in the manner prescribed by law.

County lines. SEC. 16. Should the boundary lines of Powell county, as designated in the second section of this act, approach nearer to the county seat of either of the old counties from which the territory constituting the county of Powell is taken than is prescribed by the constitution, it shall be the duty of the commissioners herein appointed to appoint some surveyor, who shall re-run and re-mark such line or lines so as not to violate the constitutional right of such old county, and said surveyor shall make a report to the county court of said county of Powell, which report so made shall be recorded by the clerk of said court, and such line so run shall be the established line of said county.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed November 30th, 1839.]

Speaker of the Senate.

CHAPTER XVI.

An Act to change the time of holding the Circuit Courts of Robertson County.

Robertson circuit court.

Be it enacted by the General Assembly of the State of Tennessee, That the Circuit Court for the County of Robertson

shall hereafter be holden on the first Mondays in June, October and February; *Provided*, the first term of said court shall be held on the first Monday in January, as heretofore prescribed by law.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 3d, 1839.]

Speaker of the Senate.

CHAPTER XVII.

An Act to authorize James Vaughn and James Ghormley to open and keep up a turnpike road.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That James Vaughn and James Ghormley, of the county of Monroe, be, and they are hereby authorized to open and keep up a turnpike road, commencing at the top of Unica mountain, at the North Carolina State line, where a turnpike road established by the State of North Carolina intersects the same, and thence the nearest and best way, in the discretion of said proprietors, to the foot of Unica mountain, and into the settlements, and within two or three miles of the said James Ghormley's present residence, in said county of Monroe; which road shall be opened eighteen feet wide, where the ground will admit, clear of stumps, roots and other obstructions, and where necessary, shall be causewayed in a good and substantial manner, at least twelve feet wide, and good and substantial bridges shall be constructed over all streams that require them on said road. Location, direction, &c. of road

SEC. 2. *Be it enacted*, That the road shall be so constructed as not at any place to exceed six degrees elevation. Construction.

SEC. 3. *Be it enacted*, That said road shall be opened and put in complete order, as prescribed by this act, within nine months from the passage thereof; and it shall be the duty of said proprietors to keep the road at all times in good repair, and should the same, at any time after collecting toll thereon, as hereinafter provided, be out of repair for the space of one month together, the proprietors shall forfeit all the benefits and privileges granted by this act, and the fact of such failure to repairsaid road shall, by the commissioners hereinafter appointed, be ascertained and determined, and by them reported to the county court of Monroe county, and by said court be entered of record, when the interest of said proprietors in said road shall cease. Repairs.

SEC. 4. *Be it enacted*, That when said road shall, in the

Toll-gate.

opinion of said commissioners, be completed, as by this act required, they shall in writing authorize said proprietors to erect a toll-gate thereon at such point as the proprietors, heirs or assigns may think proper.

Table of fees.

SEC. 5. *Be it enacted*, That said proprietors, James Vaughn and James Ghormley, their heirs and assigns, shall have and enjoy the interest herein granted in said road for the term of thirty years, and shall be entitled to demand and receive toll at the following rates, to wit: For each four wheel carriage of burthen, if drawn by four or more horses, mules or oxen, one dollar; if drawn by three, seventy-five cents; if by two, sixty-two and one half cents; if drawn by one, forty cents. For each two wheeled carriage of burthen, if drawn by four or more horses, mules or oxen, fifty cents; if drawn by three, forty cents; if by one, thirty cents. For each single man and horse, twelve and one-half cents. For each led or loose horse, mule or jack, not in a drove, six and one-fourth cents; if in a drove, three cents each; for each head of cattle, three cents, for each head of hogs, or sheep, one cent. For each four wheeled pleasure carriage, with the driver and passengers, if drawn by four horses, one dollar; if by three, seventy-five cents; if drawn by two, forty cents; *Provided*, that no person going to or returning from mill, blacksmith shop, muster, court or preaching, shall be liable to pay toll.

Duty of commissioners.

SEC. 6. *Be it enacted*, That whenever said road shall be completed, as provided by this act, it shall be received by the commissioners, whose duty it shall be to pass over and view said road at least once in every one month; and if, at any time, the road shall be found out of repair, the commissioners shall order the said toll-gate to be set open, and it shall be kept open until the road shall be put in good repair; and should said proprietors collect toll from any person during the time said gate shall be ordered to be kept open as aforesaid, they, their heirs, or assignees shall forfeit and pay twenty-five dollars, to be recovered by the person injured before any justice of the peace in the State; and should any person arbitrarily pass said gate, or go around, within one mile thereof, for the purpose of avoiding the payment of toll, such person so offending shall forfeit five dollars, to be recovered by the proprietors before any justice of the peace.

Commissioners' oath.

SEC. 7. *Be it enacted*, That the commissioners herein-after appointed, before they enter upon the discharge of their duty under this act, shall take an oath before some justice of the peace of this State honestly and faithfully to discharge the duties enjoined by this act.

Their names and fees.

SEC. 8. *Be it enacted*, That Alexander Rider, William Hale and Joseph Boyd be appointed commissioners for said road, who shall be entitled to receive from such proprietors

one dollar and fifty cents for each day they shall be necessarily engaged in the examination of said road.

SEC. 9. *Be it enacted*, That nothing in this act shall be so construed as to authorize the Governor to subscribe for or take stock in said road in behalf of the State.

SEC. 10. *Be it enacted*, That said company shall have ^{Mile marks.} said road measured, and mile marks placed, as is required by law upon public roads, shall set up mile posts and mile mark the whole line of said road.

JONAS E. THOMAS,

Speaker of the House of Representatives.

THOS. LOVE,

Passed December 2d, 1839.]

Speaker of the Senate.

CHAPTER XVIII.

An Act to incorporate a Turnpike and Bridge Company from Johnsville, across the Reel-foot lake, to the Mississippi river.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That Ridley Jones and George Merriwether, of the county of Dyer, and Robert J. Rivers, R. T. Merriwether, Coleman H. Budd and Richard Anderson, of the county of Obion, and M'Kay W. Campbell, of the county of Maury, Samuel B. Marshall, of Davidson county, and George W. Gibbs, of Obion county, or any three of them, are hereby appointed to open books at such place as they may designate, having first given at least twenty days notice in some newspaper published in the Western District of this State, of the time and place of opening said books. ^{Opening of books.}

SEC. 2. *Be it further enacted*, That the capital stock of said Turnpike and Bridge Company shall be fifteen thousand dollars, with the privilege of increasing it to forty thousand dollars, if in the opinion of said Company, it shall be necessary for the construction of said Turnpike Road and Bridge. Said capital stock shall be divided into shares of fifty dollars each. As soon as the sum of five thousand dollars shall be subscribed, a meeting of the stockholders shall be held at Troy, in the county of Obion, of which meeting the commissioners hereby appointed shall give twenty days notice in some newspaper printed in Trenton; after which meeting, the subscribers shall be, and they are hereby constituted a body politic and corporate, by the name of the Obion and Reel-foot Turnpike and Bridge Company, and, together with those who may afterwards subscribe or purchase stock, shall so continue; and may own, sell or buy property, sue or be sued in their corporate

name and character, and have, enjoy and possess all the rights, powers and privileges appertaining to a body politic and corporate by law, and shall have succession for and during the term of ninety-nine years from this time, at the expiration of which ninety-nine years the rights and privileges of said Company shall expire, and said Company be dissolved: *And provided*, that said Company shall not own or possess any property or interest in value beyond the amount of the capital herein granted it. The subscribers, or a majority of them being present at the first meeting, shall elect seven directors, who shall be stockholders, and who shall elect one of their own number president of the board of directors; and the president and directors thus chosen shall continue in office two years and until another election shall take place, notice of which election shall be given in some paper printed in the Western District. The president and directors shall have power to open books and receive subscription as they may think best for the remainder of the capital stock of said Company.

President and
directors.

SEC. 3. *Be it enacted*, That the commissioners hereby appointed shall lay out and view the best route for the location of said Road, and designate the point where said Bridge shall be built upon Reel-foot lake. Said Road shall commence at Johnsville, on the Obion, and terminate at some point on the Mississippi river, confining said Road to the nearest and most practicable route from Johnsville to the Mississippi river.

Bridge tolls.

SEC. 4. *Be it enacted*, That so soon as the Bridge across Reel-foot lake is completed, the Company shall be entitled to receive toll at the following rates: For each four wheeled wagon and team, the sum of fifty cents; for each two wheeled vehicle, the sum of twenty-five cents; for each pleasure carriage, the sum of twenty-five cents; for man and horse, the sum of twelve and one-half cents; for each footman, six and one-fourth cents; for droves of horses, cattle and sheep, per head, three cents.

Treasurer and
secretary

SEC. 5. *Be it further enacted*, That said president and directors shall have power to appoint a treasurer, secretary, and such other officers as may be necessary for the due management of the affairs of said Company.

Pay of damages.

SEC. 6. *Be it enacted*, That said president and directors shall, if any person shall be injured by the location of said Road, pay such damages as a jury of disinterested freeholders shall assess, which said jury shall consist of twelve men, and be appointed by the circuit or county court of the county in which the land may lay; *Provided*, that in ascertaining the damages, the jury shall take into account what advantage the Road may be to the owners of such land, and the increased value accruing from the Road and Bridge.

SEC. 7. *Be it enacted*, That the Company hereby established shall have the privilege of draining the Reel-foot lake, or so much thereof as may be practicable, and that all lands vacant and unappropriated so reclaimed, shall vest in the Obion Reel-foot Turnpike and Bridge Company in fee, and said Company may apply the same to the building the Bridge and Road. Draining lak

SEC. 8. *Be it enacted*, That if, at any time, the Bridge as herein authorized to be built should at any time be out of repair, and so declared to be by the county court of Obion county, then and in that case, the Company hereby incorporated shall not exact or receive toll until the same shall be repaired. Repairs.

SEC. 9. *Be it enacted*, That nothing in this act shall be so construed as to authorize the Governor for and on behalf of the State to subscribe for any stock in said Company. Stock.

SEC. 10. *Be it enacted*, That the Company incorporated in this act, or their successors, shall, within the period of ten years from the passage of this act, have said Bridge finished and completed as in this act directed, or the rights and privileges by this act granted shall be forfeited and revert to the State. Completion.

SEC. 11. *Be it enacted*, That the period of ten years shall be granted said Company, within which they shall reclaim the land under water in said lake, for the purposes mentioned in this act; and should said Company fail or omit in the time aforesaid to reclaim said land and drain the same, the rights and privileges and estate or interest hereby and in this act granted said Company, shall be forfeited and revert to the State. Reclaim of land.

JONAS E. THOMAS,
Speaker of the House of Representatives.
THOS. LOVE,

Passed November 25th, 1839.] *Speaker of the Senate.*

CHAPTER XIX.

An Act to incorporate the inhabitants of the town of Ashport, in Lauderdale county.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the town of Ashport, in the county of Lauderdale, and the inhabitants within the limits as laid down in the plan of said town, are hereby constituted a body politic and corporate, with the style and name of the Mayor and Aldermen of the town of Ashport, and shall have perpetual succession by their corporate name, Inhabitants
body politic.

may sue and be sued, plead and be impleaded, grant, receive, purchase and hold real, mixed and personal property, or dispose of the same for the benefit of said town, and may have and use a town seal.

Powers of the corporation. SEC. 2. *Be it enacted*, That the corporation aforesaid shall have full power and authority to enact such laws and ordinances necessary and proper to preserve the health of the town; to prevent and remove nuisances; to establish a night-watch and patrols; to ascertain, when necessary, the boundary and location of streets, lots, alleys, with the consent of the proprietors of the lots and houses adjoining such streets, lanes and alleys; to construct, wharves, making landings, and regulate the same; to provide for licensing and regulating auctions; to restrain and prohibit gaming, and to provide for licensing, taxing, regulating or restraining theatrical or other public amusements and shows within the town; to pave and keep in repair the streets; to pass all laws necessary for the same; to establish necessary inspection within the town; to erect and regulate markets; to appoint a recorder, treasurer and town constable; to provide for the establishment of a fire company or companies, and the sweeping of chimneys; to erect and regulate pumps on the public square, streets, lanes or alleys; to erect reservoirs; to impose and appropriate fines and penalties and forfeitures for the breach of their by-laws or ordinances; to lay and collect taxes, for the purpose of carrying all necessary measures into operation for the benefit and advancement of said town; to restrain all tippling houses; and to pass all laws and ordinances necessary and proper to carry the intent and meaning of this act into effect: *Provided*, they are not incompatible with the constitution and the present laws of this State.

Prison house. SEC. 3. *Be it enacted*, That the corporation aforesaid shall have power to erect and establish a prison house within their town limits, wherein it may be lawful for the sheriff of Lauderdale or the town constable of said town to lodge such offenders as might be legally committed into the county jail; *Provided*, that the sheriff aforesaid shall not incarcerate any offender or other person without the permit of the Mayor or any two of the Aldermen.

Non-residents. SEC. 4. *Be it enacted*, That the laws and ordinances of said corporation shall be in no wise obligatory upon persons or property of non-residents of said town, being citizens of this State, unless in case of intentional violation of by-laws or ordinances previously promulgated; *Provided*, nevertheless, the property of such non-resident shall be taxed as other property of said town.

Fines, &c. SEC. 5. *Be it enacted*, That all fines, penalties or forfeitures, imposed by the by-laws and ordinances of said corporation, shall be sued for and recovered as other monies

are under the existing laws of the State, by the Mayor and Aldermen of said corporation, and for the use of said town.

SEC. 6. *Be it enacted*, That the sheriff of Lauderdale county, by himself or deputy, shall hold an election at the most suitable place, to be selected by him, in said town, at the first election, which shall take place on the first Monday in January, 1840, and on the same day in each and every year, for the purpose of electing seven persons to serve as Aldermen for the corporation of said town of Ashport for one year, commencing on the second Monday of the same month thereafter, but to hold their offices until the election of their successors shall have taken place; and all persons owning a freehold in said town, and also all persons residing in said town, having paid their corporation taxes, who would be qualified to vote for members of the General Assembly, shall be qualified to vote for Aldermen, and no person shall be eligible to the appointment unless he be a citizen of said town of Ashport.

Aldermen.

SEC. 7. *Be it enacted*, That the sixth, seventh, eighth and ninth sections of an act entitled an act to incorporate the inhabitants of the town of Lewisburg, in the county of Marshall, passed the 16th day of December, 1837, be, with a change of the word "Marshall" to Lauderdale wherever it occurs, re-enacted, be a part of this act.

Re-enactment.

SEC. 8. *Be it enacted*, That after the first election, the Mayor and Aldermen of said town shall select the place within the corporation at which to hold the election of Mayor and Aldermen.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 2d, 1839.]

Speaker of the Senate.

CHAPTER XX.

An Act to incorporate the Clarksville Marine Fire Insurance and Life and Trust Company.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That an Insurance and Life and Trust Company shall be established in Clarksville with a capital stock of one hundred thousand dollars, to be increased at the pleasure of the stockholders to three hundred thousand dollars, divided into shares of fifty dollars each, to be subscribed for in the manner hereafter specified; which body politic shall have succession by the name and style of the Clarksville Marine Fire Insurance and Life and Trust Com-

Capital stock.

Style

pany, and shall so continue until the year one thousand eight hundred and seventy.

Opening books. SEC. 2. *Be it enacted*, That Robert W. Galbraith, James McClure, Thomas N. Barksdale, G. A. Henry, M. A. Martin, John H. Poston, G. A. Davie, Alexander H. Cromwell, Isaac Dennison and William Brodus, or any three of them be, and they are hereby authorized to open subscription in Clarksville for the capital stock of said Company on the 15th day of March next, and to keep them open every day, between the hours of 10 A. M. and 4 P. M. for ten days, Sundays excepted, unless the capital stock shall be sooner taken. If within said ten days two thousand shares shall be subscribed for, it shall be lawful for the stockholders to meet as hereinafter directed and choose their directors, who may at any time, after having given thirty days notice in a newspaper published in Clarksville, and a newspaper published in Nashville, cause the subscription to be re-opened, and continue open, until the whole amount of said stock shall be taken. If, however, within ten days, more than six thousand shares shall be taken and subscribed for, the surplus shall be deducted from the last subscriptions; *Provided*, no preceding subscriber retains more than fifty shares.

Power of the corporation. SEC. 3. *Be it enacted*, That said corporation is hereby authorized and empowered to hold, possess and acquire, and the same to sell and convey all such real estate as shall be necessary for the convenient transaction of the business of said company, or which may be conveyed to said company for the security of any debt, which may become due and owing, or in satisfaction of any judgment or decree rendered in favor of said company, and may have and use a common seal, and the same alter or change at pleasure, and may make such other alterations and by-laws, not inconsistent with the constitution and laws of the State, as shall be necessary and proper for the good government of said Company.

Security of stock. SEC. 4. *Be it enacted*, That the stock subscribed shall be secured to the president and directors in the manner following, viz: five dollars on each share, whenever the said president and directors shall give ten days notice of the time and place of payment in a newspaper published in Clarksville and in Nashville, and five dollars on each share shall at the same time and place be received by negotiable notes with security, to be appropriated by the president and directors aforesaid, payable in Bank at Clarksville in ninety days from the date, to the president and directors and Company of said Insurance and Life and Trust Company. The balance of said stock shall be secured by negotiable notes, not having more than six months to run, with personal security, to be approved by the president and directors, or a mortgage on real estate on double the amount of the stock to be secured, with power to sell without redemption, in default of any pay-

ment that may be required by the president and directors, or by a pledge of bank stock to the satisfaction of the president and directors aforesaid.

SEC. 5. *Be it enacted*, That the said Insurance and Life and Trust Company shall have full power and authority to make insurance upon ships and other sea vessels, and upon steamboats, flat boats, and other boats, upon freight, seamen's wages, goods, wares and merchandise, and gold or silver bullion or money, against all maritime risk or risks of the river, and upon houses, stores and other buildings, goods, wares and merchandise, furniture and other articles, against fire and other casualties, and upon bottomry and respondentia, and to fix a premium thereon; and the said company shall have power: first, to make insurance on lives; second, to accept and execute all such trusts of every description as may be committed to them, by any person or persons whatsoever, or may be transferred to them; third, to receive and hold land under grants, with general or special covenants, so far as the same may be necessary, to protect the rights and debts of said company, and the same again to sell, convey and dispose of, and generally to do and perform all other things necessary to promote these objects.

Insurance.

SEC. 6. *Be it enacted*, That it shall be lawful for said company to invest any part of its capital stock, money, fund or other property, in any public stock or funded debt, created or to be created, by, or under any laws of the United States, or this, or any other State, or in the stock of any chartered bank in this State, of any other State or States of the United States, and the same to sell or transfer at pleasure, and again to re-invest the same, whenever and so often as the exigencies of said Company or a due regard for the safety of its funds shall require, or they may loan the same or any part thereof to individuals or public corporations, on real or personal security, for such periods of time as the directors, for the time being, shall deem prudent and best for the interest of said Company.

Investments.

SEC. 7. *Be it enacted*, That the real and personal estate, business, property and funds of said company, and the administration of its affairs, shall be under the direction, management and control of a board of eleven directors, each of whom shall be owners in their own names of not less than fifty shares of the capital stock of said Company, citizens of the United States and of the State of Tennessee; and also, that the individual property, both real and personal, of every stockholder in said Institution shall be held and bound for the payment of the debts of said corporation, to the full amount of his or her stock in said Company which has not been paid in.

Management.

SEC. 8. *Be it enacted*, That an election shall be held after the first election for the election of the board of directors

Elections.

for said Company, at the office of said Company in the town of Clarksville, on the third Monday in March in each and every year, of which ten days notice shall be given in some newspaper that may be printed at Clarksville, each shareholder giving one vote for each share of which he may be the owner, but no shareholder shall be entitled to more than thirty-five votes, and the persons selected shall serve as directors for the next succeeding twelve months, and if, at any time, an election shall not be held as herein provided, the said company shall not be dissolved, but the board of directors for the time being shall serve until another election shall take place, which may be at any time thereafter, the board for the time being, giving at least ten days notice thereof in some newspaper printed in Clarksville; and the said directors are hereby authorized to fill any vacancy which may happen through death, resignation or otherwise.

President.

SEC. 9. *Be it enacted*, That the directors so elected shall elect one of their body president of said Company, who shall serve until the next annual election, and in case of his death, resignation or removal, the board shall appoint a president *pro tempore*; they shall fill all vacancies which may occur in their own body, and shall appoint a Secretary and all subordinate officers, clerks, agents and servants of said corporation, fix their compensation and define their powers and prescribe their duty, who shall hold their offices during the pleasure of the board.

Power to issue.

SEC. 10. *Be it enacted*, That the president with four directors, or five directors in the absence of the president, shall have full power and authority in the name of said corporation; to insure upon all and every description of property hereinbefore mentioned, and may receive for the amount of premium such security, and payable at such times, as they may deem satisfactory, and in conformity with the regulations which may be from time to time established by the board.

Stock to be personal property.

SEC. 11. *Be it enacted*, That the stock of said Company shall be held and considered personal property, and that it shall not be assigned or transferred, except by the consent of a majority of two thirds of the directors, and in the manner and forms which shall be prescribed by the board of directors, nor shall any transfer be made for a less number of shares than the whole amount owned, unless the directors agree to an assignment of parts; yet such stock to be liable for the satisfaction of debts now prescribed by law to render stock liable.

Half yearly statements.

SEC. 12. *Be it enacted*, That on the third Monday in March and September of each year half yearly statements shall be made of the situation of the capital, and of the state of accounts of the Company, which shall be laid before the

shareholders, with the amounts, number and risks undetermined, and such dividends of the profits may be made as the president and directors may think advisable, but they shall in no case diminish the capital stock.

SEC. 13. *Be it enacted*, That if at any time a stockholder shall fail to pay such instalments on his stock, as may be called for, at the time, and in the manner prescribed, the board of directors for the time being shall have full power to declare such stock forfeited, and shall, after giving ten days notice thereof, offer the same for sale at public auction, to the highest bidder for cash, and the number of shares so sold shall be transferred by the president of the board of directors to the highest bidder, who shall by virtue of such transfer become a member of said Company, and if the same be not equal to the amount paid, and the call for which it is sold, the Company may proceed to collect the residue from the original stockholder by suit, in any court or tribunal of this State having jurisdiction thereof, and judgments rendered for instalments of stocks shall not, if rendered by a justice of the peace, be subject to stay of executions. Forfeiture of stock.

SEC. 14. *Be it enacted*, That the board of directors shall have power at any time, when in their opinion the interest of the Company requires it, to demand of any stockholder additional security for such part of his stock as may remain unpaid, and if such stockholder shall fail or refuse to give such additional, or other security, to the satisfaction of the board of directors, they may declare such stock forfeited, and sell the same as provided for in the preceding section. Additional security.

SEC. 15. *Be it enacted*, That so soon as the amount of the stock mentioned in the second section of this act is subscribed for, and after five days notice in a newspaper published in Clarksville, signed by any three of the members of this Company, the shareholders shall meet at such time and place as may be appointed, within the town of Clarksville, and elect by ballot the first board of directors, a plurality of votes given shall elect, and the person so elected shall at their first meeting elect one of themselves president of the board, who, with the said directors, shall serve until the third Monday in March, 1841, or until another board is elected. Meeting of shareholders.

SEC. 16. *Be it enacted*, That nothing herein contained shall be construed so as to give the Company hereby created the power of issuing bills of credit or exercising banking privileges.

SEC. 17. *Be it enacted*, That nothing herein contained shall be so construed as to prevent the legislature from granting similar powers and privileges to similar associations.

SEC. 18. *Be it enacted*, That said company shall have

power to insure any personal property not named in this act.

Agencies.

SEC. 19. *Be it enacted*, That the president and directors of said Company may have power to establish agencies in the State of Tennessee, or elsewhere, if to them it may seem proper.

SEC. 20. *Be it enacted*, That the powers granted in the fifth section of this act, to accept and execute all such trusts as may be committed to them by any person or persons whatsoever, or may be transferred to them, shall not extend to any trusts for any insurance company, bank or any other corporation, which is not chartered by, and under the authority of the laws of this State; and said Clarksville Marine Fire Insurance and Life and Trust Company shall not have power to act as trustees for any insurance company, bank or any other corporation which is not chartered by the laws of this State, or for the agent or agents of any such insurance company, bank or other corporation.

Bonus.

SEC. 21. *Be it enacted*, That in consideration of the privileges conferred by this charter, the Company shall pay to the State the same bonus that other insurance companies, chartered by the State, are paying, and the same is hereby appropriated to common schools.

SEC. 22. *Be it enacted*, That all the rights or privileges heretofore granted to any existing insurance office in this State is hereby extended to the corporation herein created.

Forfeiture of
charter.

SEC. 23. *Be it enacted*, That whenever said Company shall, at the expiration of four months, fail or refuse to pay any judgment which may be obtained against them, this charter is then declared to be forfeited, unless enjoined, superseded, or removed by writ of error.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed Jan. 15th, 1840.]

CHAPTER XXI.

An Act to regulate and alter the time of holding certain Chancery and Circuit Courts, and for other purposes.

District Courts.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the District Chancery Courts for the 4th division shall be held twice in each year, at the following times and places, viz:

At Livingston on the 1st Mondays of March and Septem-

ber; at Carthage on the 2d Mondays of February and August; at Lebanon on the 2d Mondays of January and July; at Murfreesboro' on the 1st Mondays of January and July; at Shelbyville on the 4th Mondays of June and December; at Winchester on the 3d Mondays of February and August; at McMinnville on the 4th Mondays of January and July. The Chancery Court at Pikeville shall be attached to and form a part of the 4th Chancery Division, and shall be held on the second Mondays of March and September. The county of Jackson shall constitute one Chancery District, and the Courts therefor shall be held at Gainsboro', in the county of Jackson, on the first Mondays of May and November.

SEC. 2. *Be it enacted*, That the Circuit Courts for the 5th Circuit shall be held at the times following: For Bedford county on the 1st Mondays of April, August and December; for Rutherford county on the 2d Mondays of March, July, and November; for the county of Wilson on the 4th Mondays of January, May, and September; for the county of Cannon on the 3d Mondays of January, May, and September; but the first term of each of said Courts, after the passage of this act, shall be held at the times now prescribed by law, and ever afterwards as above directed; and the county of De Kalb shall hereafter be attached to the 4th Circuit, and the Circuit Courts thereof shall be held by the Judge of said Circuit on the 2d Mondays of April, August and December; and the county of Van Buren shall be attached to the 13th Circuit, and the Circuit Courts thereof shall be held by the Judge of said Circuit on the 4th Mondays of April, August and December, and bills in Chancery for said county to be filed at McMinnville.

SEC. 3. *Be it enacted*, That the Circuit Courts for the 13th Circuit, except as above provided, shall be held in each and every year, as follows: For the county of Lincoln on the 1st Mondays of February, June and October; for the county of Franklin on the 3d Mondays of March, July and November; for the county of Warren on the 3d Mondays of January, May and September; for the county of Coffee on the 4th Mondays of February, June and October; but the next term of said Courts, after the passage of this act, shall be held as now provided by law, and forever thereafter as herein prescribed.

SEC. 4. *Be it enacted*, That the counties of Bradley and Polk shall compose one Chancery District, and the Courts in and for the same shall be holden at Cleveland by the Chancellor of the Eastern Division on the 2d Mondays of March and September.

SEC. 5. *Be it enacted*, That the county of Gibson and Dyer shall compose one Chancery District, and the Courts for the same shall be held by the Chancellor of the Western Division at Trenton, in the county of Gibson, on the 2d Mondays of March and September.

Dates and places
for holding them

Circuit Courts
when and where
held.

13th Circuit.

Bradley and
Polk one Chan-
cery.

Gibson and
Dyer one Chan-
cery.

SEC. 6. *Be it enacted,* That the Courts for the Chancery District composed of the counties of Davidson and Williamson shall hereafter be held on the 3d Mondays of April and October, instead of the 4th Mondays of April and October.

SEC. 7. *Be it enacted,* That the Chancery Courts in the 5th Chancery District, in the Eastern Division of the State, shall hereafter be held at Dandridge on the 2d Mondays in June and December in each and every year: *Provided,* that the 1st term of said Court to be held after the passage of this act shall be held on the 3d Monday in June next, as heretofore prescribed by law, and all subsequent terms of said Court as herein provided.

SEC. 8. *Be it enacted,* That the respective Chancellors, in whose division[s] new and additional Chancery Courts have been established by this or any other act passed at the present session of the General Assembly, shall appoint Clerks for the same, who shall give bond and security as by the law now directed, and be subject to the same duties and liabilities as the Clerks of the Chancery Courts are now subject to.

SEC. 9. *Be it enacted,* That suits in Chancery originating in the county of McMinn may be brought either in the Chancery Court at Madisonville or at Cleveland, at the election of the complainant; and suits originating in the county of Meigs may be brought either in the Chancery Court at Kingston or at Cleveland, at the election of the complainant; and suits originating in the county of Hamilton may be brought either in the Chancery Court at Pikeville or at Cleveland, at the election of the complainant.

SEC. 10. *Be it enacted,* That the Circuit Courts for the County of Hawkins shall hereafter be held in each and every year on the 4th Mondays of January, May and September: *Provided,* that the first term of said Court to be held after the passage of this act shall be held at the time heretofore prescribed by law, and all subsequent terms at the times herein provided.

SEC. 11. *Be it enacted,* That the county of Lawrence shall compose a separate Chancery District in the Middle division of the State, and the Court shall be held by the Chancellor of said division at Lawrenceburgh on the 4th Mondays of May and November in every year; that suits now pending between the citizens of said county, in the Chancery Court at Pulaski, shall be transferred to said Court at Lawrenceburgh on or before the first term thereof, and that suits originating in the county of Wayne may be brought either in the Court at Savannah or Lawrenceburgh.

SEC. 12. *Be it enacted,* That the county of Sevier shall compose one Chancery District, and the Courts thereof, shall be held on the 2d Mondays of April and October in every year at the Court House in Sevierville.

SEC. 13. *Be it enacted* That the first Court to be held under this act shall be held on the 2d Monday of April, 1840, at which time the Chancellor holding the same shall appoint a Clerk and Master, and organize said Court according to law and the rules governing other Chancery Courts in this State, and said Court when so organized shall have and entertain all the powers and jurisdictions of other Chancery Courts in this State.

First court when held, Chancellor's duty.

SEC. 14. *Be it enacted*, That all Chancery causes originating in the county of Sevier shall be cognizable by the Chancery Court at Sevierville, and all laws heretofore passed making Sevier county a part of the Chancery District composed of the counties of Cocke, Jefferson and Sevier, of which the Chancery Court is held at Dandridge, be and the same are hereby repealed.

Chancery causes in Sevier.

SEC. 15. *Be it enacted*, That the Circuit Courts for the tenth Judicial Circuit shall hereafter be held at the following times, to wit: For the county of Lauderdale the session of the Court shall commence on the 1st Mondays in February, June and October; for the county of Haywood on the 2d Mondays of February, June and October; for the county of Madison on the 4th Mondays in April, August and October; for the county of Henderson on the 4th Mondays of March, July and November.

10th Judicial Circuit.

SEC. 16. *Be it enacted*, That the Circuit Courts for the 11th Judicial Circuit shall hereafter commence [its] their sessions in each of the counties in said Circuit at the following time[s] to wit:

11th Circuit.

For the county of McNairy on the first Mondays in January, May and September; for the county of Hardeman on the 2d Mondays in January, May and September; for the county of Fayette on the 3d Mondays in January, May and September; for the county of Shelby on the 1st Mondays in February, June and October; for the county of Tipton, which is hereby attached to and made a part of the 11th Circuit, on the 3d Mondays in February, June and October.

SEC. 17. *Be it enacted*, That the Chancery Court shall hereafter be held at Brownsville in Haywood county on the second Mondays in May and November, and the Chancery Court at Sommersville on the 3d Mondays in May and November.

Haywood Chancery court.

SEC. 18. *Be it enacted*, That each of the Courts herein named shall hold their first term after the passage of this act at the times heretofore fixed by law and thereafter at the times specified in this act.

First term when held.

JONAS E. THOMAS,
Speaker of the House of Representatives.
THOMAS LOVE,

Passed January 29th, 1839.] Speaker of the Senate.

CHAPTER XXII.

An Act to provide for the payment of twenty-five dollars to Holman & Hollingsworth, for services rendered the State.

Be it enacted by the General Assembly of the State of Tennessee, That the Treasurer of the State of Tennessee pay to Holman & Hollingsworth twenty-five dollars, as compensation to them for drawing the answer of Miller Francis, Treasurer, to a bill filed against him as Treasurer, and others, by the administrators of John G. Eason, in the chancery court at Jonesboro', and the receipt of such payment shall be a good voucher for the Treasurer upon settlement with the Comptroller.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 3d, 1839.]

Speaker of the Senate.

CHAPTER XXIII.

An Act giving further time to former sheriffs to collect arrearages for taxes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the further time of two years be allowed to former sheriffs to collect all arrearages of taxes due then and uncollected.

Two years allowed.

SEC. 2. *Be it enacted*, That such former sheriff, either by himself or a deputy, shall have the same power and right to enforce the payment of any taxes that may be due said former sheriff that sheriffs in office have under the rules and regulations, and all sales of lands shall be as valid as if the same was made by any sheriff in office; *Provided*, the same is made in pursuance of law.

Enforcing payment of taxes.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 2d, 1839.]

Speaker of the Senate.

CHAPTER XXIV.

An Act to exempt persons disabled by sickness or other causes from working on public roads.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That from and after the first day of January, 1840, no person or persons, who by sickness or other causes are disabled from performing common labor, shall be compelled to work on public roads; *Provided*, that nothing herein contained shall be so construed as to exempt slaves or other persons, not disabled as aforesaid, or in the employment of said disabled persons, from working on said roads as heretofore provided by law.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed December 3d, 1839.]

CHAPTER XXV.

An Act to incorporate the trustees of the Ashland Academy, in Wayne county, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That Thomas M. East, John M'Dugal, Lemuel D. Mack, David Gallaher, Richard Kindle, Nathaniel Biffle, Jonathan Elliot, Abram Montague and Wm. B. Ross be, and they are hereby constituted a body politic and corporate, by the name of the Trustees of the Ashland Academy, and by that name shall have perpetual succession, and a common seal; and the said Trustees and their successors, by the name aforesaid, shall be capable in law to purchase, receive and hold themselves and their successors forever, or for any less estate, any lands, tenements, goods or chattels which shall be given, granted or devised to them for the use of said Academy, and to use and dispose of the same in such manner as to them shall seem most advantageous, for the use of said Academy; and said Trustees and their successors, by the name aforesaid, may sue and be sued, plead and be impleaded, in any court of law or equity of this State or elsewhere.

Trustees.

Their power.

SEC. 2. *Be it enacted*, That the said Trustees and their successors shall have power to hold a meeting, whenever convened by the president or any two of said Trustees, at any place said president or Trustees may appoint, but not

Meetings.

Vacancies. less than five members shall constitute a board, which board, or a majority of them, shall have power to fill all vacancies which may happen by death, resignation, removal or otherwise, to appoint a president and secretary of said board, and to transact all business of every description relating to the interest, government and management of said Academy, in such manner as to them shall seem expedient and necessary, except in the disposal of real estate, in which case a majority of the acting Trustees shall be required to constitute a quorum.

Disposal of real estate. **Trustees may sue.** **SEC. 3.** *Be it enacted,* That the Trustees appointed by this act, and their successors, shall have power and may sue for and recover of any person or persons, save the State, any funds in his or their hands belonging to said Academy in said county or elsewhere.

Williamsport Academy. **SEC. 4.** *Be it enacted,* That Gerard T. Greenfield, Wm. W. Coleman, John O. Cook, Boling Gordon, Troy S. Brown, Thomas P. Johnson and John B. Hamilton be, and they are hereby constituted a body politic and corporate, by the name of the Trustees of Williamsport Academy, in the county of Maury, and by that name shall possess all the powers and privileges as are by law granted by the first and second sections to the Trustees of the Ashland Academy, in the county of Wayne.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 6th, 1839.]

Speaker of the Senate.

CHAPTER XXVI.

An Act to provide for the probate and registration of deeds and other instruments executed beyond the limits of the United States, and for other purposes.

Proving of deeds **SECTION 1.** *Be it enacted by the General Assembly of the State of Tennessee,* That deeds, powers of attorney, and other instruments for the transfer or conveyance of property or effects, real or personal, or appointing agents to transact any business whatever, and all other deeds of every description, may be proved by two subscribing witnesses, or acknowledged and recorded or registered in the manner hereafter prescribed; and when so proved or acknowledged and recorded or registered, may be read in evidence as other registered papers, and shall have the like force and effect.

Deeds executed out of U. States. **SEC. 2.** All such deeds, powers of attorney, and other instruments executed beyond the limits of the United States,

or where the person executing the same, or the witnesses, or any of them, shall reside, or be beyond the limits of the United States, may be proved by two subscribing witnesses, or acknowledged by the person executing the same, before a notary public, who shall certify the same under his seal of office; or such deed, power of attorney, or other instrument may be proved or acknowledged before a judge of the supreme or superior court, who shall certify the same under his hand, and thereupon the clerk of such court shall certify under his seal of office, if there be a seal, or under his private seal if there be none, as to the official character of the judge; or such deed, power of attorney, or other instrument may be proved or acknowledged before any court of record, and certified by the clerk under his seal of office, if there be a seal, or under his private seal if there be none, and in such case, the judge, chief justice, or presiding magistrate of the court, shall certify as to the official character of the clerk; or such deed, power of attorney, or other instrument may be proved or acknowledged before any Consul, Minister or Ambassador of the United States in any foreign country of State; and certified by him under his seal of office, if there be a seal, or under his private seal if there be none; or the same may be proved or acknowledged before a commissioner appointed by the Governor, as provided in the subsequent section of this act, who shall certify the same under his seal of office.

SEC. 3. The Governor of the State of Tennessee, for the time being, is hereby authorized and empowered to appoint and commission, under the Great Seal of the State, one or more persons in each State or Territory of this Union, and also in any foreign State, to be styled commissioner or commissioners of the State of Tennessee; and each of said commissioners is hereby authorized and empowered to take the acknowledgement and probate of deeds, powers of attorney, and other instruments to be registered or recorded in this State, and to take affidavits to be used or read in evidence in any courts of law or equity in this State, and to hold said office during the pleasure of the Governor. State Commissioners.

SEC. 4. Any affidavit taken before such commissioner, Affidavits or before any Consul or notary public, as to the pedigree or heirship of any person or persons, may be received as evidence thereof by any executor or administrator, or other person or tribunal having the partition and distribution of property or estates.

SEC. 5. Deeds, powers of attorney, and other instruments, may also be proved or acknowledged in the several States of this Union where the parties or witnesses thereto may reside or be, as provided in the foregoing sections, may in like manner be registered. Acknowledgment of deeds, &c.

SEC. 6. Or where any *feme covert* shall be a party to any of the foregoing instruments, if the same be for real estate, her privy examination and acknowledgment may be taken before the same officer or court who, under the foregoing sections, has authority to take the probate or acknowledgment of deeds; and if the same be for other purposes than the conveyance of real estate, her acknowledgment may be taken in like manner, which examination and acknowledgment shall be certified and registered, as in other cases, and shall have full force and effect to pass the title or confer the powers intended to be conveyed.

Registration of
instruments. SEC. 7. All deeds, powers of attorney, or other instruments, proved or acknowledged and certified in the manner aforesaid, may be registered in this State, and when so registered, shall have the same force and effect as deeds, powers of attorney, and other instruments proved or acknowledged and registered according to the laws now in force, and may be read in evidence without further proof.

Deeds previously
registered. SEC. 8. *Be it enacted*, That where any deed of conveyance, or powers of attorney authorizing such conveyance, or other instrument in this act mentioned, shall have been heretofore registered or proven according to the provisions of this act, the same shall be as good and effectual as if the same were done after the passage of this act; *Provided*, nothing herein contained shall be construed to defeat the rights of creditors, or subsequent *bona fide* purchasers for a full consideration, without notice of such deed or other instrument. And where the certificate of a clerk of a court of record, having jurisdiction to take the probate of deeds or other instruments required to be registered in this State, or if any clerk of the county court in this State should show that any deed or other instrument has heretofore been proved, by proof of the hand-writing of the bargainer or maker of such deed or other instrument, or of the hand-writing of one or more of the subscribing witnesses thereto, pursuant to any of the laws now in force in this State, the probate and registration of such deed or other instrument shall be deemed good and effectual.

Clerical omissions
remedied,
&c. SEC. 9. *Be it enacted*, That where any deed, or other instrument, authorized by law to be registered, has heretofore been proved or acknowledged and registered, and the clerk in his entry upon the minutes, or in his certificate upon the deed, has omitted to give a description of the property contained in the deed, or omitted to mention the same, such probate or acknowledgment, and the registration thereof, shall be good and effectual, and such deed may be read in evidence as though the property was described in the probate; in like manner, if the certificate of probate shall state that the deed was duly proved, but shall not name the

subscribing witnesses by whom it was so proved, the court shall presume that it was duly proved by all the subscribing witnesses, and the probate and registration shall be good and effectual, leaving it to the adverse party to disprove the fact; so, if the certificate shall say that the deed was duly acknowledged in court, but shall not say by whom, it shall be presumed to have been acknowledged by the grantor or bargainor, and the acknowledgment and registration shall be good and effectual; and in all cases where a clerk has made a certificate on a deed, authorizing the same to be registered, and the same shall state enough to authorize the deed to be registered, the certificate and registration shall be good and effectual, although the certificate is not and does not purport to be a transcript from the minutes, but it shall be presumed that the entry upon the minutes authorized the certificate by the clerk until the contrary be shown; and when the clerk has omitted to mention the time or style of the court at or in which the deed has been proved or acknowledged, it shall be presumed that the deed was proved in the court of which the person giving the certificate was clerk, and the certificate and registration shall be good and effectual until the contrary be shown; and no probate or acknowledgment shall be void, for want of sufficient certainty therein, if enough is contained in the face thereof to identify the deed to which it applies; and whenever a deed has been registered twenty years or more, the same shall be presumed to be upon lawful authority, and the probate shall be good and effectual though the certificate on which the same has been registered has not been transferred to the register's book, and no matter what has been the form of the certificate of probate or acknowledgment.

SEC. 10. And when a deed has been registered more than thirty years, but the register has omitted to register the signature or subscription of the name of the grantor or bargainor, it shall be presumed that the name of the grantor or bargainor was subscribed to the deed, and such registration shall be good and effectual, and the original deeds, or copies thereof from the register's book, if the absence of the original is accounted for and cannot be produced, may be read in evidence; and in proving the time when a deed has been registered, the date upon the books may be referred to, or the register may certify the fact in the copy as it appears upon his book, or the age or time of registration may be established by parol testimony.

SEC. 11. *Be it enacted*, That hereafter it shall be the duty of the different county registers of this State, when they register any deed, bill of sale, or other instrument requiring registration, immediately thereafter to index the same under the initial letter as well of the bargainor as bargainee.

SEC. 12. *Be it further enacted,* That every register failing to make an index shall forfeit the sum of one hundred dollars, one-half to the use of the State and the other half to any person who shall sue for the same.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 16th, 1839.] *Speaker of the Senate.*

CHAPTER XXVII.

An Act for the relief of A. M. Rogers, late sheriff and collector of Hamilton county,

Be it enacted by the General Assembly of the State of Tennessee, That the Treasurer of the State of Tennessee, upon the warrant of the Comptroller of the Treasury, pay to Alfred M. Rogers, late sheriff and collector of Hamilton county, the sum of thirty-five dollars and eighty-five cents, out of any money in the Treasury not otherwise appropriated.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 16th, 1839.] *Speaker of the Senate.*

CHAPTER XXVIII.

An Act to charter Perryville and Lexington Turnpike Company, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That Andrew Still, Jesse Gray, John L. Houston, Bailum Raines, Robert C. Graham, Aaron Low and Jesse Taylor, of the county of Perry, of the county of Henderson, Joseph Esery, Willis F. Low, John Harmon, Job H. Bell and Gladin Gorin be, and they are hereby appointed commissioners to open books for subscription for stock at such places as they, or any three of them, may appoint, from each county, for the purpose of constructing a Turnpike road from Perry to Lexington.

SEC. 2. *Be it enacted,* That the capital stock of said Company shall be twenty thousand dollars, but if a greater sum should be necessary, the said Company shall have power to increase the same to a sum sufficient to make said road;

so soon as six thousand dollars shall be subscribed, the said commissioners shall call a meeting, by advertising at least twenty days at three public places in each county, of the stockholders, who shall elect five directors for said Company; *Organization.* and after which meeting, the said stockholders, and such as may afterwards become stockholders, shall be, and they are hereby constituted a body corporate, by the name of the Perryville and Lexington Turnpike Company, and shall have succession for thirty years; the said directors shall choose one of their own body president of the board, and they shall locate the road from Perryville to Lexington.

SEC. 3. *Be it enacted,* That the said road shall be at least twenty feet wide, clear of stumps, trees and other obstructions; and when necessary to the improvement of said road, shall be causewayed in a safe manner at least sixteen feet in width, and shall be bridges built over all the streams that may be necessary. *Width of road, &c.*

SEC. 4. *Be it enacted,* That when it shall so happen that said road has to be cut down or dug, said road shall only be sixteen feet in width.

SEC. 5. *Be it enacted,* That if the Company and owner cannot agree as to the value of the land over which the said road passes, either party may apply to the county court where the land is situated, by giving ten days notice, to appoint valuers to condemn the land for the use of said road; and the court shall appoint three disinterested freeholders of the county where such land is situated, who shall be sworn justly and impartially to value the same, who shall ascertain what damages such owner may sustain, if any, by the road passing through or over said land, taking into consideration the benefit said road may be to the owner; and the said freeholders shall report to said court as soon as practicable, which shall be recorded, and the damages, if any, be paid to the owner; the report shall describe the land so condemned, and shall effect to convey the land to the Company. *Valuation of land.*

SEC. 6. *Be it enacted,* That as soon as said Company has completed said road, as contemplated by this act, they shall have the right of two toll-gates, one in each county, and exact toll at each. *Damages.*

SEC. 7. *Be it enacted,* That said Company shall be authorized to charge the following rates of toll, to-wit: For every hog or sheep, two cents; for each head of horned cattle, three cents; for each jack or jennet, horse or mule, in a drove, four cents; for each horse, mule, jack or jennet, being led, five cents; for each man and horse or mule, six and one-quarter cents; for every two-wheeled carriage, twelve and one-half cents; for each carryall, twelve and one-half cents; for each road wagon, twenty-five cents; *Toll gates.*

for each pleasure carriage, drawn by two horses, twenty-five cents; for each mail stage, fifty cents.

First toll-gate. SEC. 8. *Be it enacted*, That so soon as ten miles is completed, it shall and may be lawful to have one toll-gate on said road.

Refusal to pay toll. SEC. 9. *Be it enacted*, That if any person or persons refuse to pay the toll hereby granted, at the time of offering to pass any gate, the toll gatherer may refuse a passage to such person liable to pay toll; and if any person liable for toll shall pass without payment of toll, the same shall be liable by warrant, before any justice of the peace, in favor of said Company, and on conviction shall forfeit and pay five dollars for each offence.

Dividends. SEC. 10. *Be it enacted*, That after said road shall be completed, the president and directors shall, at the end of each year, disclose and make such dividends of nett profits from the toll herein granted to the proprietors of the stock of said Company, in proportion to their respective shares.

Failure to keep in repair. SEC. 11. *Be it enacted*, That if said Company shall fail to keep said road in repair at any time for the space of ten days, information thereof to any justice of the peace of the county, he shall issue a warrant to some constable, commanding him to summon three freeholders, to meet at a certain time and place therein specified, five days notice having been given to the keeper of the next toll-gate or president of the Company; and if, by said freeholders, or any two of them, in the presence of the justice, the said road shall be found out of repair, according to the intent and meaning of this act, the toll hereby granted shall cease to be demanded at the nearest gate until said defective part of the road shall be put in good repair; the said person entrusted with said repair thereof shall be subject to a fine of ten dollars with costs, which fine shall go one-half to him who will sue and the other half to the use of common schools for said counties.

Forfeiture of charter. SEC. 12. *Be it enacted*, That if said Company shall not begin said road in one year from the passage of this act, and complete the same in three years thereafter, in the manner herein directed, this charter shall be forfeited.

Subscribers for stock. SEC. 13. *Be it enacted*, That any person or persons who may become subscribers for stock in said road, may be permitted to discharge the whole, or any part thereof, in work or labor on said road, in building the same upon such terms and such way as may be agreed upon by such subscribers, president and directors; *Provided* that such stockholder will construct any particular portion of said road on as good terms as any other person, in a contract to construct any portion of said road he may select.

SEC. 14. *Be it enacted*, That said commissioners, at their

first meeting, shall elect five persons out of their own body to mark out said road between said points designated in the first section of this act. Marking out road.

SEC. 15. *Be it enacted,* That said shares shall be divided into fifty dollars each; *Provided,* the State shall not be considered a stockholder in said road, nor shall the Governor take or subscribe for any stock in said road. Shares.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 13th, 1839.] *Speaker of the Senate.*

CHAPTER XXIX.

An Act to amend an act passed at Nashville, in the year 1838, relative to the internal improvement fund of Lawrence county.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the county trustee of the county of Lawrence, and his successors in office, be authorized and empowered to receive from the late chairman of the board of common school commissioners for said county any monies or certificate of bank stock which he may have on hand, as the internal improvement fund of said county, and that the receipt of said trustee shall be sufficient authority for said chairman to pay the same. Internal improvement fund.

SEC. 2. *Be it enacted,* That the said trustee shall add all such monies, or any funds he may hereafter receive from such stock, to the common school fund of said county, and distribute the same in the same proportion, with the regular apportionment from the superintendent, amongst the several school districts in said county. School fund.

SEC. 3. That said trustee, and his successors, shall give an additional bond to the chairman of the county court of said county in the sum of twenty-five hundred dollars, with sufficient security, conditioned for the faithful and punctual application of said funds to the purpose in the manner herein prescribed, and its surrender to his successor or such person or persons as may be legally empowered to receive the same. Trustee's additional bonds.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 20th, 1839.] *Speaker of the Senate.*

CHAPTER XXX.

An Act for the benefit of James Spencer, a citizen of Meigs county, in the Ocoee district.

Be it enacted by the General Assembly of the State of Tennessee, That the Bank of Tennessee refund to James Spencer, of Meigs county, at their branch at Athens, the sum of twelve hundred dollars, out of any monies deposited in said branch to the credit of the common school fund, being the amount by him paid, as occupant enterer, into the entry taker's office of the Ocoee district, by mistake, for the south-west quarter of section thirty-two, in fractional township one, in range two, west of the basis line in said district, instead of the south-west quarter of section thirty-three in said fractional township and range, of which he was the lawful occupant.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 23d, 1839.]

Speaker of the Senate.

CHAPTER XXXI.

An Act for the relief of Erby Boyd, of Bradley county.

Be it enacted by the General Assembly of the State of Tennessee, That the branch Bank of Tennessee at Athens be, and is hereby directed and required, to refund to Erby Boyd, of Bradley county, seventy-five dollars, being the amount overpaid by him to the entry taker of the Ocoee district in the entry of the north-west fractional quarter of section thirteen of fractional township two north in range one east of the basis line.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 23d, 1839.]

Speaker of the Senate.

CHAPTER XXXII.

An Act to establish the town of Chattanooga, in the county of Hamilton, and to incorporate the inhabitants thereof.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That a town, to be hereafter known by the name of Chattanooga, is hereby established on the south side of Tennessee river, at the place now known as Ross's Landing, in the county of Hamilton, on the south-east fractional quarter of fractional section twenty, and the north-east quarter of section twenty-nine, in the second fractional township and fourth range west of the basis line in the Ocoee district; said town shall include within its limits the whole of said quarter and fractional quarter section of land, and the bank of Tennessee river to low water mark, between the north-east and north-west corners of said fractional quarter, in which such lots, streets, lanes and alleys as have been or may hereafter be laid off by commissioners appointed by the proprietors of said land for that purpose.

Boundaries of Chattanooga.

SEC. 2. *Be it enacted*, That the town of Chattanooga aforesaid, and the inhabitants thereof, are hereby constituted a body politic and corporate, by the name and style of the Mayor and Aldermen of the town of Chattanooga, and shall have perpetual succession, and by their corporate name sue and be sued, plead and be impleaded, grant, receive, purchase and hold real, personal and mixed property, or dispose of the same for the benefit of said town, and may have and use a town seal.

Body politic.

SEC. 3. *Be it enacted*, That the corporation aforesaid shall have full power and authority to enact such laws and ordinances necessary and proper to preserve the health of the town; prevent and remove nuisances; to establish a night-watches and patrols; to ascertain, when necessary, the boundary and location of streets, lots and alleys; to establish new streets, lanes and alleys, with the consent of the proprietors of the lots and houses adjoining such streets, lanes and alleys; to provide for licensing and regulating auctions; to restrain and prohibit gaming; and to provide for licensing, taxing, regulating or restraining theatrical or other public amusements and shows within the town; to pave and keep in repair the streets; to pass all laws necessary for the same; to establish necessary inspections within the town; to erect and regulate markets; to appoint a recorder, treasurer and town constable; to provide for the organization and regulation of a fire company or companies, and the sweeping of chimneys; to procure water by digging wells, or otherwise to erect and regulate pumps in the streets; to restrain tipping houses; to make wharves in that part of the town bordering on

Corporate powers.

the river, and to designate separate landings for various kinds of boats and other water crafts to land at, to pass all laws necessary for the regulation of the same; to impose and appropriate fines, penalties and forfeitures for the breach of the by-laws and ordinances; to lay and collect taxes for the purpose of carrying the necessary measures and powers herein granted into operation for the benefit of said town; and to pass all laws and ordinances necessary and proper to carry the intent and meaning of this act into effect: *Provided* they are not incompatible with the constitution and laws of this State.

Non-residents. SEC. 4. *Be it enacted*, That the laws and ordinances of said corporation shall be in no wise obligatory upon the persons or property of non-residents of said town, being citizens of this State, unless in case of intentional violation of by-laws or ordinances previously promulgated; *Provided, nevertheless*, that the property of such non-resident shall be taxed as other property in said town.

Fines, &c. SEC. 5. *Be it enacted*, That all fines, penalties or forfeitures, imposed by the by-laws and ordinances of said corporation, shall be sued for and recovered as other monies are under the existing laws of the State, by the Mayor and Aldermen of said corporation, and for the use of said town.

Election of Aldermen. SEC. 6. *Be it enacted*, That the sheriff of Hamilton county, by himself or deputy, shall hold an election on the second Thursday in January, 1840, in the town of Chattanooga, and on the second Thursday in each and every year, for the purpose of electing seven persons to serve as Aldermen for the corporation of said town for one year, commencing on the Monday next succeeding the day of election; and all persons owning a freehold in said town and being citizens of this State, and also all persons residing in said town who would be qualified to vote for members of the General Assembly, shall be entitled to vote for Aldermen, and no person shall be eligible to the appointment of Alderman unless he is a freeholder and citizen of said town.

Mayor. SEC. 7. *Be it enacted*, That the seven persons qualified as aforesaid, having the highest number of votes at an election held as aforesaid, shall be taken to be duly elected, and the sheriff of said county of Hamilton shall, within two days thereafter, give each of the seven Aldermen elected a certificate of his election; and it shall be the duty of the persons so elected to meet on the next succeeding Monday in said town; any number not less than five shall be a quorum, and they shall then proceed to elect by ballot one of their own number to be Mayor of said corporation for the time for which the Aldermen were elected as aforesaid; and when any Mayor of said corporation shall die, remove out of said town, or resign, another election shall be made by the Aldermen, in the manner aforesaid, of another per-

Vacancies.

son for the time then unexpired, and until the next general election of Aldermen; and when any Alderman shall die, remove or resign, such vacancy may be filled by the Mayor and Aldermen of said town at any regular meeting, and the person or persons so appointed shall serve until the next election.

SEC. 8. *Be it enacted*, That the recorder, treasurer and constable appointed by said corporation shall continue in office during the term of service of the Mayor and Aldermen by whom they are appointed, but may be removed from office by a majority of the Mayor and Aldermen at any regular meeting; and shall, on entering on the duties of their offices, give such bonds and security as may be required of them, to the Mayor of the corporation, for the faithful discharge of the duties of their appointment, and accounting for all monies by them collected or received for the use of the corporation, and their compensation shall be regulated by the Mayor and Aldermen.

Recorder, treasurer and constable.

SEC. 9. *Be it enacted*, That the Mayor and Aldermen of said town shall, before entering upon the duties of their office, take an oath before some justice of the peace of said county to faithfully, uprightly and honestly demean themselves as Mayor and Aldermen of said corporation during their continuance in office.

Oaths of officers.

SEC. 10. *Be it enacted*, That when any tax or duty shall be imposed upon any property lying within the bounds of said corporation, and not paid by the owner or occupier of the same, and there should not be any personal property of the owner or occupier of the same within the limits of said corporation upon which the same could be levied, then it shall be the duty of the recorder to certify the same to the circuit court of Hamilton county, at the term to which the sheriff of said county is required to report lands in his county on which the State and county tax has not been paid; and upon said report at said term, it shall be the duty of the circuit court to enter judgment for the tax due said corporation in the same manner that judgments are required to be entered for the non-payment of the tax due the county and State upon lands lying in said county, and the same shall be sold at the same time and in the same manner, and be subject to the same rules, regulations and restrictions, that are by law required for the sale of lands lying within said county on which the State and county tax is not paid; which tax, when collected by the sheriff, as provided for in this section, shall be paid by him into the hands of the town treasurer for the use of said corporation, and which sale, when made in manner aforesaid, shall vest the same right and title to the purchaser as if the sale had been made for taxes due the State.

Non-payment of taxes on property.

SEC. 11. *Be it enacted*, That the constable of said town

Constable's fees, shall have the same fees as are allowed by law to other constables of the State for similar services, and the constable, before he enters on the discharge of his duties, shall take the oath prescribed by law for other constables of this State. It shall be the duty of the town constable to execute all warrants and other process growing out of the corporation laws from justices of the peace.

Sec. 12. *Be it enacted*, That when any real estate in said town may be levied upon for any corporation dues, the same proceedings shall be had thereon as is prescribed by law in other cases of precepts issued by justices of the peace.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Passed December 20th, 1839.] *Speaker of the Senate,*

CHAPTER XXXIII.

An Act supplemental to an act passed on the 22d of December, 1835, entitled an act to establish Chancery Courts.

Be it enacted by the General Assembly of the State of Tennessee, That this State shall be laid off into four Chancery divisions, and that the fourth division of district Chancery Courts shall consist of the said Courts holden at Livingston, Carthage, M'Minnville, Winchester, Lebanon, Murfreesboro' and Shelbyville, with the counties by law attached to said districts; and the said Courts composing the said fourth division shall continue to be held in the counties and districts as is now provided or may hereafter be provided by law; and for the said fourth division a Chancellor shall be elected who shall reside in the same, who shall be lawfully commissioned and qualified, and possess all the powers and authority by law conferred on the Chancellors of this State.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Passed December 30th, 1839.] *Speaker of the Senate,*

CHAPTER XXXIV.

An Act to incorporate the Bersheba Chalybeate Springs, in the county of Warren, and the Bloomingdale Medicinal Springs, in Franklin county, and Coffee county Medicinal Springs.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That George R. Smartt, William B. Smartt, Alfred Paine and Samuel Edmundson, the owners of a tract of land of about one thousand acres with the exception of six square poles, lying on the Cumberland mountain, in the county of Warren, in the State of Tennessee, upon which are situated valuable chalybeate and other mineral springs, shall have power to divide the said property into two hundred shares, to be sold at such price as the said owners may by joint agreement fix upon, and the money arising therefrom to be paid and apportioned as hereinafter directed. Division into shares.

SEC. 2. *Be it enacted*, That the owners aforesaid, their successors and assigns, be, and they are hereby created a body politic and corporate in law and in fact, by the name and style of the Bersheba Chalybeate Springs, and shall so continue for fifty years; and by the name and style aforesaid may contract and be contracted with, sue and be sued, may make and use a common seal, and ordain and establish such rules and regulations as shall be necessary and convenient for the government and management of the said corporation, not inconsistent with the constitution and laws of this State and of the United States, and generally to exercise franchises of a corporate body and to carry the object into effect for which they are incorporated. Style of body politic.

SEC. 3. *Be it enacted*, That the purchasers of said shares at the time of subscribing, or at such time as the agents of said corporation may stipulate at the time of subscribing, and until a meeting of the stockholders and organization of the company, as hereinafter directed, the proprietors of said tract of land shall be authorized to receive subscriptions, or appoint agents to receive subscription, and exercise all the other powers of the corporation, and all acts of the corporation may be evidenced by the proprietors thereof under their several hands, acting for and on behalf of the corporation, or by the agent under his hand, or by the common seal of the corporation. Corporate powers.

SEC. 4. *Be it enacted*, That when one-half of said shares may have been sold, there shall be a meeting of the stockholders at such time and place as the present owners may direct, they giving thirty days notice in some newspaper, for the election of five directors, one of whom shall be president of the board, to manage the concerns of said company, who shall hold their offices for one year and until their successors Subscriptions.

SEC. 4. *Be it enacted*, That when one-half of said shares may have been sold, there shall be a meeting of the stockholders at such time and place as the present owners may direct, they giving thirty days notice in some newspaper, for the election of five directors, one of whom shall be president of the board, to manage the concerns of said company, who shall hold their offices for one year and until their successors Organization.

are elected and qualified, which shall be annually; and immediately on their election they shall appoint a treasurer and clerk, who shall give bond and security in such sum as said directors shall deem sufficient, who may be one of the said directors, and the present owners shall immediately hand over to him all the property and effects of the corporation and the subscription list aforesaid.

Present owners to subscribe one-half of the stock. SEC. 5. *Be it enacted*, That the present owners of said land be, and they are hereby authorized to become subscribers for one-half of the capital stock of said corporation, and to convey the land aforesaid to the corporation, or they may take any amount of shares less than half, either jointly or severally, at the same rates, estimating the whole lands to be worth one-half of the stock of the corporation; and for the balance, if any, due the proprietors of said land, which their subscription does not pay, the proprietors of said land shall be paid out of the funds of the corporation.

Quorum. SEC. 6. *Be it enacted*, That any three of the board of directors shall constitute a quorum to do business, and a majority of the board when convened shall decide all questions and matters pertaining to the corporations, and shall direct the improvement of said Springs, and to do all other things authorized to be done by the charter.

Bloomingtondale Med. Springs. SEC. 7. *Be it enacted*, That Hugh Francis, W. Estell and W. B. Wagner, owners of a large tract of land in Franklin county, on which there are several chalybeate and [other] mineral springs, be incorporated under the name and style of the Bloomingtondale Medicinal Springs, upon the same terms and conditions as the Bersheba Chalybeate Springs as above provided.

Coffee county Med. Springs. SEC. 8. *Be it enacted*, That John Hereford, John Charles, Benjamin F. Hollins, Isaac H. Roberts and Jonathan Webster, owners of a large tract of land in Coffee county, on which are situated valuable chalybeate, sulphur and medicinal springs, be incorporated under the name and style of the Coffee county Medicinal Springs, upon the same terms and conditions as are prescribed for the incorporation of the Bersheba Chalybeate Springs.

Stockholders. SEC. 9. *Be it enacted*, That stockholders in said companies shall be jointly and severally bound in their private capacity for all debts of said corporations.

Privileges. SEC. 10. *Be it enacted*, That nothing contained in this act shall be so construed to authorize either of the corporations herein created to have or exercise the privilege of banking, or of issuing any bill, order or draft, check or change ticket, intended or the tendency of which will be to circulate as change or currency.

Reserved right. SEC. 11. *Be it enacted*, That nothing in this act contained shall be so construed as to deprive the legislature of this State from altering, amending or repealing all or any

part of the same whenever they shall deem the interest and welfare of the country to require it.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 23d, 1839.] *Speaker of the Senate.*

CHAPTER XXXV.

An Act to authorize aliens to hold, convey, mortgage, lease, demise and inherit real estate, lands and other property, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That any alien who has come, or who ^{Privileges of aliens after declaring intention.} may hereafter come into the State, and who has declared or declares his intention to become a citizen of the United States of America according to law, and obtain naturalization as soon as he can be naturalized under the existing laws of the United States, shall thereupon be authorized and enabled to take and hold lands and real estate of any kind and nature whatsoever, to him, his heirs and assigns forever, and may sell, assign, convey, mortgage, grant, devise and dispose of the same, and lease and demise the same, or any part thereof, in any manner and form he might or could do if he were a native citizen of this State or of the United States.

SEC. 2. *Be it enacted*, That when any such alien shall ^{Heirs of aliens.} die, after having declared his intention to become a citizen of the United States, as aforesaid, leaving an heir or heirs an inhabitant or inhabitants of the United States, such heir or heirs shall take, by descent, and hold real estate and lands of which such alien died seized, in the same manner as he or they would have inherited if such alien had been at the time of his death a citizen of this State or of the United States.

SEC. 3. *Be it enacted*, That if any alien shall sell and dispose of any real estate and lands which he is entitled to hold and dispose of by this act, he, his heirs and assigns may take mortgages or deeds of trust in his or their own name, as a collateral security for the purchase money due thereon, or any part thereof, and such mortgagee or grantee, his heirs, assigns or legal representatives, or any of them, may re-purchase any of said premises in any sale thereof made by virtue of any power contained in such mortgage or deed of trust, or by virtue of any judgment or decree of any court of law or equity rendered in order to enforce the payment of such money, or any part thereof, and may ^{Allens may sell estates, take mortgage, &c.}

hold the same premises in like manner and with the same authority and power as if the same were originally held by such mortgagor or grantor.

SEC. 4. *Be it enacted*, That every alien who shall hold
 Their taxes. any land or real estate by any of the foregoing provisions shall be subject to duties, assessments, taxes and burthens as if he were a citizen of this State.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 18th, 1839.] *Speaker of the Senate.*

CHAPTER XXXVI.

An Act to alter the dividing line between the counties of Sevier and Blount.

SECTION 1. *Be it enacted by the General Assembly of the*
 Blount and Sevier, dividing line. *State of Tennessee*, That the dividing line between the counties of Blount and Sevier be so altered, commencing at a point of said line on the top of Round-top mountain, and running from thence a due south course to the line of North Carolina.

SEC. 2. *Be it enacted*, That the county courts of Blount and Sevier, or either of them, be, and they are hereby authorized to employ the county surveyors of said counties, or either of them, or any other competent person or persons, to run and mark said line, and make said surveyors such compensation as the said court or courts may think reasonable, payable out of the county treasury.

SEC. 3. *Be it further enacted*, That nothing in this act
 Discretion of the court. contained shall be so construed as to require said county courts, or either of them, to have said line run and marked, or to make an appropriation for the payment thereof, unless at the discretion of the court, a legal number of justices voting in the affirmative.

SEC. 4. *Be it enacted*, That either of the county courts
 Either county court may run the line. may have said line run and marked either with or without the co-operation of the other, and when done it shall be as binding upon both as if both had acted in concert in running and marking said line.

SEC. 5. *Be it further enacted*, That nothing in this act
 Sheriffs. contained shall be so construed as to prevent the sheriff from collecting any taxes due by citizens of either county (if any there be) that may be affected by the alteration of said line.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 18th, 1839.] *Speaker of the Senate.*

CHAPTER XXXVII.

An Act to amend the law now in force and use in this State in relation to the appointment of deputy surveyors south and west of the Congressional reservation line.

Be it enacted by the General Assembly of the State of Tennessee, That it shall be and may be lawful for the surveyor of any county, south and west of the congressional reservation line, to appoint as many deputies as they may think proper and right, any law to the contrary notwithstanding.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 27th, 1839.] *Speaker of the Senate.*

CHAPTER XXXVIII.

An Act to re-enact and amend "an act to establish a system of Common Schools in the State of Tennessee," passed January 24, 1838.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That it shall be the duty of the Superintendent of Public Instruction, amongst other things, to prepare and submit to the Legislature at each regular session a report containing,

I. A statement of the condition of common school monies.

II. Estimates and accounts of the expenditures of the School monies.

III. Plans for the improvement and management of the common school fund, and for the better organization of the common schools, and

IV. All such matters relating to his office and to the common schools, as he shall deem expedient to communicate, or such as shall be required by either branch of the General Assembly.

SEC. 2. The Superintendent shall every year, on the third Monday in July, apportion the school monies to be distributed amongst the several counties of the State, and the share of each county amongst its respective school districts.

SEC. 3. Such apportionment shall be made among the several counties of the State, according to the ratio of their white children between the ages of six and sixteen years, respectively, as compared with the white children of the whole State within the ages aforesaid according to the last

preceding annual reports of the school commissioners of the several counties, and shall be made amongst the several school districts in each county according to the same ratio.

Defective re-
turns.

SEC. 4. When the returns upon which an apportionment is to be made shall be so far defective, in respect to any county or school districts, as to render it impracticable for the Superintendent to ascertain the share of school monies which ought then to be apportioned to such county or school district, he shall ascertain by the best evidence in his power the facts upon which the ratio of such apportionment shall depend, and shall make the apportionment accordingly.

Notices.

SEC. 5. The Superintendent shall give immediate notice of each apportionment of monies to the county trustee and clerk of the county court of each county in the State, stating the amount of monies apportioned to his county and to each school district therein, and shall moreover give public notice in some newspaper printed at the seat of government of the exact amount apportioned to each county.

Forms for re-
ports.

SEC. 6. The Superintendent shall prepare suitable forms and regulations for making all reports and conducting all necessary proceedings under this act, and shall cause the same, with such instruction as he shall deem necessary and proper for the better organization and government of common schools, to be transmitted to the officers required to execute the provisions of this act throughout the State.

SEC. 7. He shall cause so many copies of this act and of such others relating to the common schools, with the forms, regulations and instructions prepared by him thereto annexed, to be from time to time printed and distributed amongst the several school districts of the State as he shall deem the public good to require.

Annual ap-
propriation from
Bank.

SEC. 8. The annual appropriation from the Bank of Tennessee; together with the tax on school lands, and such other taxes, fines, revenues or funds as have been or may be appropriated to the use of common schools, and which are subject to annual distributions, shall, as they may respectively arise or become due, be paid into the treasury of the State upon the warrant of the Comptroller.

SEC. 9. The said annual appropriation from the Bank of Tennessee, the tax on school lands, the bonus from banks and other corporations, and such other school monies as may be in the treasury of the State on the second Monday in July in every year, shall be apportioned by the Superintendent and distributed for the encouragement of common schools, and shall be paid, on the warrant of the Comptroller, to the county trustees of the several counties in the State in the manner hereinafter directed.

SEC. 10. The Comptroller shall issue his warrant on the treasury, in favor of the trustees of each county, for the

portion of school monies which may have been apportioned to such county for the year, and shall transmit such warrants to the trustees of the counties respectively, which warrants shall be transferable by assignment, and shall be paid only to the persons in whose favor they may be drawn or to their assignee, and shall be received on deposit as cash by the Bank of Tennessee and its branches.

Comptroller's
warrant to trustees.

SEC. 11. Each trustee receiving such money shall give notice in writing to some one or more of the commissioners of common schools in each school district in his county of the amount apportioned to such districts, and shall hold the same subject to the order of such commissioners.

Trustee's duty.

SEC. 12. In case the commissioners of any school district shall not apply for and receive such monies before the next receipt of monies apportioned to the county, the monies so remaining with the trustee shall be retained by him, and be added to the monies next received by him for such district, and be paid over therewith.

SEC. 13. Counties which have never used that portion of the common school fund allotted to them under the provisions of former acts, but have loaned out the same and have paid the interest accruing thereon, or any part thereof, to the Superintendent of Public Instruction, under the act of 1836, recalling the common school fund from the several counties, shall be entitled, under any distribution hereafter to be made of the common school fund for purposes of education, to an additional sum, equal to the interest so paid up as aforesaid, over and above their distributive share, to be paid out of the funds withdrawn from the counties; and shall also be entitled to the profits of any investment of said interest, but where such county or counties may have been divided or any part thereof which may have been stricken off and attached to any other county. All new counties or parts of counties that have been taken from any old county, which may have loaned and re-loaned their portion of the common school fund, and returned principal and interest under the act of 1835, without using said interest, it shall be the duty of the trustees of said old county to apportion the amount due such county according to the scholastic population between the old county and such part or parts taken therefrom; and those counties which have not paid up the interest as aforesaid, shall not be required to do so, but the same shall remain in said counties respectively. And there be added to the fund which shall hereafter be distributed to said counties for the purpose of common schools, and it is hereby made the duty of the Superintendent to keep a correct and distinct account of such interest as may have been paid over as aforesaid, and to return the same as herein directed, and he shall not demand or receive any such interest hereafter under the provisions of the act of 1836

Counties not
using their sch'l
monies.

aforesaid; *Provided*, that no such interest shall be returned to or retained by any county until the principal distributed to such county, together with the interest thereon from the passage of the act of 1836 aforesaid, shall be paid to the Superintendent. The interest herein required to be refunded to any county shall be paid to such county in the first apportionment to be made by the Superintendent under this act.

Davidson, Ruth-
erford and Bed-
ford.

SEC. 14. The fund which has arisen or which may hereafter arise from that portion of the stock in the Nashville, Murfreesboro' and Shelbyville Turnpike Company, in which is vested the internal improvement fund of the counties of Davidson, Rutherford and Bedford, shall not constitute any portion of the common school fund for distribution or appropriation under this act or any act of this General Assembly, but the same shall be distributed among said counties as heretofore directed by law.

Duty of clerk.

SEC. 15. Whenever any clerk of any county court shall receive from the Superintendent notice of the apportionment of monies to be distributed in the county, he shall file the same in his office and register it in a book to be kept for that purpose.

Union of dis-
tricts.

SEC. 16. To provide for the present want of teachers and by offering higher wages induce competent persons to become teachers, it shall be lawful for two [or] more districts to unite their funds and employ a superior teacher, who shall divide his time between the districts in such manner as may be agreed upon by the commissioners thereof; and when the citizens of any district may be so inconvenient to the centre of the district as to preclude them from the benefit of the school, and when houses shall be prepared for that purpose, the commissioners of the district shall direct the teacher to appropriate his time at two or more places in said district, as the convenience and interest of the citizens thereof may require.

Funds insuffi-
cient to pay tea-
chers.

SEC. 17. When the public funds apportioned to any district shall be insufficient to pay the teachers wages, the commissioners of such district shall have the power to collect the residue of such wages from parents, guardians and others who may have derived benefit from the school by sending children thereto, and shall apportion the amount to be collected from each according to the number of children sent by each, and the length of time such children may have been at school; *Provided always*, that if any person or persons shall be opposed to coming under the provisions of this section or the common school system, and feel their rights thereby invaded, he, she or they shall have the right and privilege of sending their children, or any individual living with them, of scholastic age, to any public school that may suit their convenience; any person wishing to send to

school to a teacher employed by school commissioners, at a certain salary, shall pay to said commissioners the customary price of tuition for the time their child or children may attend school; or they may agree with the common school commissioners, who employ said teacher, at what rates must be paid for tuition. In all such cases it shall be the duty of the public teacher to keep an exact account of the time the child or children may attend the school, and the estimate of the same to be paid for such schooling shall be made accordingly.

SEC. 18. It shall be the duty of every person sending a child to school to provide his just proportion of the fuel for the use of the school, and the proportion of fuel which any person sending children to the school shall be liable to provide, shall be determined by the commissioners of the school district according to the number of children sent by each; but such indigent persons as, in the judgment of the commissioners, shall be unable to provide the same, shall be exempt from such liability. Fuel for school.

SEC. 19. If any person liable to provide such fuel shall omit to provide the same, on motion from any one of such commissioners, it shall be the duty of the commissioners to furnish such fuel and charge the person so in default the value or amount so paid for the fuel furnished, and such value or amount may be added to the rate-bill of the monies due for instruction, and may be collected therewith, and in the same manner, or the commissioners may sue for and recover the same in their own names with the cost of suit.

SEC. 20. The justices' or civil districts of each county may continue to be school districts; but it shall be lawful for the county court of any county in this State, two-thirds of the justices of the county being present, and a majority of the same concurring therein, to appoint three persons as commissioners, whose duty it shall be, after being duly sworn by some justice of the peace, honestly, faithfully, and without favor or partiality, and to the best of their ability and judgment, to proceed to lay off their county into school districts of convenient size, in each of which one good school may be taught, having strict regard at the same time to a suitable and central site for a school-house, and to other necessary things pertaining to a school, and to number and describe the same. And that any school district in any county in this State shall be authorized to receive its due apportionment of the distributive school fund at any time when they are organized according to law, and carrying on, or are ready to carry on, a school or schools in their district, without being required to show that there had been a school or schools carried on in such district at least three months in the preceding year. Commissioners to lay off districts.

SEC. 21. The commissioners thus appointed by the

June election. county court or courts of this State shall appoint and designate a place, at the same time they lay off the districts as above directed, in each of said school districts, at which an election shall be held on the first Saturday in June, in 1840, and forever thereafter every two years, for the purpose of electing three common school commissioners; and the county court appointing said commissioners to lay off school districts and to designate places in them for holding elections, shall make them such compensation for their services as they deem just and right, to be paid out of the county treasury.

Duty of sheriffs. **SEC. 22.** It shall be the duty of the sheriffs of the several counties of this State in the first week of May, 1840, and forever thereafter every two years, to appoint a suitable person to each school district of the respective counties of this State, whose duty it shall be to give notice in writing, at two of the most public places in said district, ten days previous to the day on which the election is to be held for common school commissioners. The several persons appointed to give notice of and hold said elections shall, before opening said election, be sworn by some justice of the peace to faithfully and impartially hold said election, and report the result thereof; the three persons receiving the highest number of votes shall be declared duly elected, and shall hold their offices for two years and until their successors in office are elected; before entering upon their duties as common school commissioners, they shall take an oath before an acting justice of the peace to honestly and faithfully discharge their duties as common school commissioners; all qualified voters for members of the General Assembly shall be entitled to vote for common school commissioners. It shall be the duty of all persons appointed by the sheriffs of the several counties, and holding the elections for said commissioners, to certify the result to the county court clerk, who shall enter the same on record.

Commissioners to fill vacancies in their board. **SEC. 23.** The commissioners of each school district shall have power to fill any vacancy occasioned by death, resignation, removal from the district, or otherwise, for the unexpired time of the commissioner who occasioned the vacancy; and it shall be the duty of said commissioners, and they shall have power to elect one of their own body as treasurer, whose duty it shall be to receive and pay over all monies owing to and due from the school district, who, before he commences the discharge of the duties of his office, shall first enter into bond, with good and approved security, in the sum of two hundred and fifty dollars, payable to the chairman of said board of commissioners and his successors in office, conditioned for the safe keeping and disbursement of all monies which may come into his hands as treasurer of said board; and shall be authorized to choose

one of their own body to act as district clerk, and make him such allowance as will be a reasonable compensation for books and paper furnished by him; said commissioners shall be exempt from the performance of military duty in time of peace and working on public roads.

SEC. 24. All children between the ages of six and twenty-one years shall have the privilege of attending the public school of the district in which they reside for the time being; and the school commissioners in each school district may admit students who do not reside in their districts the privilege of attending the public schools in their respective school districts, by requiring them to pay the price of their tuition by individual subscription. Scholars.

SEC. 25. The common school commissioners who shall be elected in June next shall proceed to ascertain the whole number of white children in their respective districts on the last day of June, 1840, over the age of six and under sixteen years old, and shall forthwith make a report thereof to the clerk of the county court in their counties respectively, which enumeration and report, as before directed, shall be made annually after the first enumeration as by this act directed, which report shall be filed by said clerks and a certified copy thereof transmitted to the Superintendent on or before the first day of November next; and the clerks shall state in their returns to the Superintendent the number by which each district is known, and that said report contains all the districts in the county. Duty of commissioners.

SEC. 26. It shall be the duty of said commissioners, and they shall have power:

I. To apply for and receive from the county trustee all monies apportioned or collected for the use of schools in their district.

II. To have the custody and keeping of the district school house or houses.

III. To contract with and employ all teachers in the district, and pay their wages out of the monies which shall come into their hands from the county trustee or from any other source.

IV. To visit the common school or schools in their district at least once in three months, and oftener if they shall deem it necessary.

V. At such visitation to examine into the state and condition of such school, both as respects the progress of the scholars in learning and the good order of the school.

VI. To give their advice and direction to the teacher of such school regarding the government thereof and the course of studies to be pursued therein.

VII. To dismiss any teacher for incompetency, improper conduct, or inattention to his duties.

VIII. To exempt from the payment of the wages of the

teachers such indigent persons within the district as they shall think proper.

IX. To certify such exemptions, and deliver the certificates thereof to the clerk of the district, to be kept on file in his office.

X. To ascertain, by the examination of the school lists kept by the teachers, the number of days for which each person not so exempted shall be liable to pay for instruction, and the amount payable by each person.

XI. To make out a rate-bill containing the names of such person so liable and the amount for which he is liable, and annex thereto authority for the collection thereof.

XII. To choose a district clerk.

Duty of district clerk.

SEC. 27. It shall be the duty of the clerk of each school district,

I. To record the proceedings of his district in a book to be provided for that purpose, and to enter therein the copies of all reports made by the commissioners of his district to the clerk of the county court.

II. To keep and preserve all records, books and papers belonging to his office, and deliver the same to his successor in office.

III. To receive all such communications as may be directed to him by the Superintendent of Public Instruction, and dispose of the same in the manner directed therein.

IV. To transmit to the clerk of the county court all such reports as may be made by the commissioners to such clerk.

V. To call the commissioners together, upon receiving notice from the clerk of the county court that they have not made their annual report, for the purpose of making such report, and generally,

VI. To do and execute all such things as belong to his office and may be required of him by the commissioners.

Duty of commissioners.

SEC. 28. It shall be the duty of the commissioners of each school district, between the first day of July and the first day of October in each year, to make and transmit to the clerk of the county court a report in writing, bearing date the first of July in the year of its transmission, and stating,

I. The length of time a school or schools shall have been kept in their district during the year ending on the day previous to the date of such report.

II. The number of children taught in the district during such year.

III. The number of white children residing in the district on the last day of June previous to the making of such report, over the age of six years and under sixteen years of age, the names of the parents or other persons with whom such children shall respectively reside, and the number of children residing with each.

IV. The amount of public monies received in such district.

V. The manner in which the public monies received have been expended, and whether any and what part remain unexpended and for what cause.

VI. What money is received for supporting the school in the district, what by voluntary contribution, and what by rate-bill.

VII. What part of the money raised for the support of the school is paid for furniture, wood and incidental expense, and what part for instruction only.

VIII. The whole amount of monies received by the commissioners during the year ending at the date of their report, since the date of their last preceding report, distinguishing the amounts received from the public fund, and from any other and what source.

SEC. 29. In case the commissioners in any school district shall not, on or before the first day [of] October in any year, make such report to the clerk of the county court, it shall be his duty to give immediate notice of such neglect to the clerk of the school commissioners in such district. County court clerk.

SEC. 30. The commissioners neglecting to make such report within the limited period, shall forfeit severally to their district, for the use of common schools therein, the sum of ten dollars each. Forfeitures.

SEC. 31. When the share of school money apportioned to a district shall be lost to the district by the neglect of the commissioners, the commissioners guilty of such neglect shall forfeit to their district the full amount, with interest, of the monies so lost; and for the payment of the sum so forfeited, shall be jointly and severally liable. Losses.

SEC. 32. It shall be the duty of the county trustee, upon notice of such loss from the Superintendent of Public Instruction, to prosecute without delay, in his name of office for the use of the district, for such forfeiture; and the monies so received shall be recovered as other school funds for the use of the district. County trustee.

SEC. 33. The commissioners of each district shall keep a just and true account of all school monies received and expended by them, and shall annually report the same to the clerk of the county court. Commissioners accounts.

SEC. 34. Any balance of school funds which may remain in the hands of the school commissioners of any district on going out of office, shall be by them immediately paid over to their successors in office or some one of them.

SEC. 35. The commissioners of common schools in each district shall have the powers and privileges of a corporation, so far as to enable them to take and hold any property transferred to them for the use of common schools in such

district, and to sue for and receive any such funds due the same.

False reports. SEC. 36. Every commissioner of school districts who shall sign a false report, with intent to cause the Superintendent to apportion his district a larger sum than its proportion of school money, shall for such offence forfeit the sum of twenty-five dollars and be deemed guilty of a misdemeanor.

Districts. SEC. 37. It shall be the duty of the clerk of the county court, between the first day of October and the first day of December in every year, to make and transmit to the Superintendent of Public Instruction a report in writing, containing the whole number of school districts in his county, distinguishing the districts from which the necessary reports have been made to him by the commissioners of common schools, and containing a certified copy of all such reports.

Clerks. SEC. 38. Every clerk who shall refuse or neglect to make such report within the period so limited, shall, for every such offence, forfeit the sum of one hundred dollars to the use of the school fund of the State.

SEC. 39. The Superintendent shall, without delay, prosecute in his name of office for such forfeiture, and pay the monies recovered into the Treasury of the State to the credit of the common school fund.

Neglect to make annual report. SEC. 40. It shall be the duty of the clerk of the county court, immediately after the first day of October in every year, in case the commissioners of common schools in any school district in his county shall have neglected to make to him their annual report, to give notice of such neglect to the clerk of the school district, who shall assemble such commissioners for the purpose of making their report; and the county courts of the several counties in this State are hereby authorized to make to their clerks such compensation as they may think reasonable for services which may be performed by them under the provisions of this act, to be paid out of the county treasury.

Trustee's bonds. SEC. 41. It shall be the duty of the county trustee of each county, in each and every year, before receiving any money due to his county for the use of common schools, to enter into bond before the county court of his county, with two or more good and sufficient securities, to be adjudged of by the court, in double the amount which is expected to come into the hands of said trustee in one year, payable to the Superintendent and his successors in office, conditioned for the faithful paying over according to law all monies which may come into his hands on account of common schools; and on such bond being executed, the clerk shall give said trustee a certificate of that fact, which shall authorize him to receive any money due to such county for the use of common schools, and on failure of said trus-

tees to pay over said money according to law the commissioners of any district being entitled thereto, may recover judgment for the same against said trustee and his securities by motion in the circuit court of his county on a certified copy of their bond from the clerk of the county court; and said trustee shall retain one per cent. on the amount received and paid over by him, as a compensation for his services.

SEC. 42. The Superintendent shall settle with the banks, insurance companies, tax collectors and clerks, and all other corporations, companies, officers and persons all accounts of monies due from them or any of them, which have been appropriated to the use of common schools, and which are by law subject to the annual distribution, and shall charge the same and keep a full account thereof in books to be kept by him in his office for that purpose, and shall issue his warrants for the payment thereof into the Treasury in the same manner as for the payment of the revenue of the State. Superintendent's duty.

SEC. 43. The act passed January 24th, 1838, entitled "an act to establish a system of common schools in the State of Tennessee," (be, and the same) is hereby repealed. Repeal.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 28th, 1840.]

Speaker of the Senate.

CHAPTER XXXIX.

An Act to regulate the receipt and disbursement of the Common School monies.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That all laws and parts of laws now in force, authorizing or directing the Superintendent of Public Instruction to receive the monies belonging to the common school fund of this State, be, and the same are hereby repealed. Repeal.

SEC. 2. *Be it enacted,* That the Bank of Tennessee and such of its branches, as the president and directors of the principal Bank may direct, shall receive and give duplicate receipts for all monies which may hereafter be collected from the debtors of said fund, one of which receipts shall be given to the person paying the same, and the other transmitted forthwith to the Superintendent of Public Instruction and if such monies, or any part thereof, shall be paid into any of the branch Banks, as aforesaid, the cashier thereof shall transmit a receipt therefor to said Superintendent through the principal Bank. Duplicate receipts.

Duty of the Superintendent. SEC. 3. *Be it enacted*, That it shall be the duty of the Superintendent of Public Instruction forthwith to have collected all the debts that are now due to the school fund of this State, and the debts that are not yet due to have collected as soon as the same shall become due; and it is hereby made his duty to obtain from all county agents, appointed under the 23d chapter of the act of 1836, a complete list of all the claims placed in their hands, as well those paid as unpaid, and a full statement of each particular case, and if he shall find that any such agent has used or retained any of the monies by him collected, or has failed to discharge the duties enforced upon him by the act aforesaid, then it shall be the duty of said Superintendent to bring suit against such agent for such failure.

Duty of the Bank. SEC. 4. *Be it enacted*, That it shall be the duty of the Bank of Tennessee forthwith to demand and receive of and from said Superintendent all monies which he may or ought to have in his possession belonging to the common school fund, and if necessary, to sue for and recover the same.

Certificates of Bank Stock. SEC. 5. *Be it enacted*, That for all monies which the Bank of Tennessee or branches may receive as aforesaid they shall issue to the Superintendent certificate of stock as heretofore.

Debtors to the fund. SEC. 6. *Be it enacted*, That as soon as practicable, the Superintendent of Public Instruction shall make out and deliver to the Bank of Tennessee a complete list of all claims against the debtors to the common school fund, and at the end of every three months from the passage of this act, he shall report to said Bank any change that may in the meantime occur in the nature of any of said claims.

Claims. SEC. 7. *Be it enacted*, That all claims against the common school fund shall be presented to the Superintendent of Public Instruction, who shall examine and adjust the same according to law, and shall draw his warrant upon the Bank of Tennessee for such sums as may be found due, which shall be paid out of the interest arising from the common school fund.

Records. SEC. 8. *Be it enacted*, That the Superintendent of Public Instruction shall keep a regular statement of all warrants by him so issued, and also of the receipts of the Bank of Tennessee and branches, and he shall in each of his reports to the Legislature make out a fair statement of the monthly receipts and disbursements of the common school fund, and of the sum received and balances due from each county, and also the balances due from all other sources, and from what sources.

Expenses. SEC. 9. *Be it enacted*, That no allowance shall be made the said Superintendent for any other expenses than postage incurred by the correspondence of his office, reasonable fees to counsel, reasonable stationary and account

books, and such printing as the board of common school commissioners may think proper to direct.

SEC. 10. *Be it enacted*, That the taxes heretofore paid into the common school fund from certain lands in the State shall hereafter be paid into the State Treasury, and in lieu thereof their shall (be) paid out of the Treasury of the State annually for the use of common schools the sum of two thousand dollars. Land taxes.

SEC. 11. *Be it enacted*, That the Attorney General shall give to the Superintendent of Public Instruction such legal advice as he, in the discharge of his official duties, may at any time require. Legal advice.

SEC. 12. *Be it enacted*, That no issue be made by the principal bank at Nashville upon the funds received under the provisions of this act until otherwise provided for by an act of the General Assembly.

SEC. 13. *Be it enacted*, That the Superintendent shall enter into bond, with two or more good and sufficient securities, to be approved by the Governor of the State of Tennessee, in the penal sum of one hundred thousand dollars, and payable to the Governor of the State of Tennessee for the time being, and his successors in office, conditioned for the true and faithful discharge of the duties of his office. Superintendent's bond.

SEC. 14. *Be it enacted*, That this act shall take effect and be in force from and after the passage thereof.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 27th, 1839.] *Speaker of the Senate.*

CHAPTER XL.

An Act to amend the act of 1831, chapter 40, entitled an act to abolish imprisonment for debt, except in cases of fraud.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That when any person or persons shall be arrested under any original or mesne process, under the provisions of the act of 1831, chap. 40, aforesaid, requiring bail, it shall be lawful for such person so arrested to apply by petition to any judge of the State or justice of the peace of the county having jurisdiction of the cause of action, for the writ of *habeas corpus* to be discharged from further custody or imprisonment. Discharge of persons under arrest.

SEC. 2. *Be it enacted*, That if the person or persons so applying and obtaining the *habeas corpus*, shall, upon oath before the judge or justice granting the same, deny

the facts and charges in the affidavit of the plaintiff whereby the process is issued, it shall be the duty of the judge or justice to receive and hear proof from either further touching the matter in dispute; and if the court or justice shall be satisfied that the plaintiff, his agent or attorney, had sworn falsely, or was mistaken, or that the causes alledged in the affidavit were insufficient, the said judge or justice shall discharge the person or persons so arrested from further custody or imprisonment.

Notice of application for discharge,

SEC. 3. *Be it enacted*, That if the plaintiff, his agent or attorney, shall live in the county where such person may be arrested, five days notice of the time and place of applying to be discharged, shall be given him by the person so arrested, and if the plaintiff, his agent or attorney, live out of the county, then ten days notice shall be given.

Subsequent prosecution of the cause.

SEC. 4. If, upon the hearing of said application, the judge or justice shall discharge the person or persons so arrested from imprisonment, the cause shall be prosecuted and tried and determined as if the same had been commenced by the process of summons.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 24th, 1840.]

Speaker of the Senate.

CHAPTER XLI.

An Act to explain and extend the provisions of the act of 1794, chap. 1, section 32, passed Sept. 29th, 1794.

Testimony of negroes, &c.

Be it enacted by the General Assembly of the State of Tennessee, That from and after the passage of this act all the class of persons consisting of all negroes, indians, mulattoes, and persons of mixed blood, mentioned in the second proviso of the 32d section of the act of 1794, chap. 1, which this act is intended to explain, whether bond or free, shall be taken and deemed to be good witnesses for each other in all cases where, by the provisions of said act, they are made competent witnesses against each other in criminal prosecutions.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 23d, 1839.]

Speaker of the Senate.

CHAPTER XLII.

An Act to amend an act entitled an act to prescribe certain duties to be performed by the clerks of the several courts in this State, and for other purposes, passed 15th of February, 1836.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That so much of the 6th section of the above recited act as required the several attorney generals in this State to call upon the clerks of the county courts, at the first court after the first day of October in each and every year, for their receipts for public monies by them collected, and also the Comptroller's receipt for the statements of monies collected, be, and the same is hereby repealed. Repeal.

SEC. 2. *Be it enacted,* That it shall be the duty of the several clerks of the county courts in this State, at the first court after the first day of October in each and every year, to produce to the chairmen of the several county courts their receipts for the public monies by them collected, and also the Comptroller's receipt for the statement of monies collected; and if said clerks shall fail to produce their receipts when called on by the several chairmen of the county courts, or if said receipts should show from the dates thereof that said clerk had not complied with the requisitions of the act passed 15th February, 1836, it shall be the duty of the court to dismiss such clerk from office, and said court shall appoint a clerk *pro tempore*, as may be prescribed by law. Duty of clerks.

SEC. 3. *Be it enacted,* That if any chairman of the several county courts of this State, or attorney generals of the several circuit courts in this State, shall fail or refuse to call upon the clerks of the county and circuit courts for their receipts, in pursuance of the act of 1836, passed the 15th February, which this act is intended to amend, and in pursuance of this act, it shall be considered a misdemeanor in office, and on conviction thereof they shall be fined in a sum not less than ten nor more than fifty dollars. Failure to call on clerks for receipts.

SEC. 4. *Be it enacted,* That in all cases hereafter when any of the clerks of the county courts in this State shall issue a license for any privilege, upon which a State and county tax have to be collected, that it shall be the duty of the clerks of the county courts, when they issue the license and collect the State tax, also to collect the county tax, and account for the county tax collected on privileges as aforesaid in their annual settlements with the revenue commissioners of their respective counties, and pay the same over to the county trustee of their respective counties at the time of paying over other county revenue by them collected. County and State taxes.

SEC. 5. *Be it enacted,* That so much of an act passed on the 5th day of February, 1836, as requires the clerks of Repeal.

Aggregate statement.

the several county courts in this State to make out and forward to the Comptroller of the Treasury a duplicate or transcript copy of every return made by the commissioners of his county, be, and the same is hereby repealed, and instead thereof the said clerks shall hereafter only be required to make out an aggregate statement of the taxable property and polls in each civil district, and the State tax due thereon, which the sheriffs of the counties are bound to collect, and forward the same to the Comptroller in the same manner that they are now bound to forward the duplicate of the tax book; for which aggregate statement the Treasurer of the State shall pay the clerk the sum of seventy-five cents for each civil district.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 20th, 1839.]

Speaker of the Senate.

CHAPTER XLIII.

AN Act further to amend an act entitled "an act more effectually to subject property in this State belonging to non-resident debtors in the payment of their debts due citizens of this and other States," passed 15th February, 1836.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That where any creditor shall have the property or effects of a debtor attached under the provisions of the above recited act, and the debtor or person whose property is thus attached shall wish to replevy the same, it shall be lawful for him to do so on giving bond and security, payable to the complainant, in double the value of the property attached, or double the amount of the debt claimed, conditioned to pay the debt and interest and all costs, or the value of the property attached, with interest, and if the court shall so decree, and upon bond and security being given, the property and effects shall be released from the attachment.

SEC. 2. *Be it enacted,* That the officer levying the attachment shall be authorized to take such bond, if the property is sought to be replevied before the return of the attachment; but if the attachment be returned to court, or to the clerk and master of such court, then such court, or the clerk or master thereof, shall be authorized to take the bonds, and in either case the officer or court taking the bonds shall fix upon the value of the property and penalty of the bond.

SEC. 3. *Be it enacted,* That if, upon the final hearing of the cause, the defendant is cast in the suit, the court shall

render its judgment or decree against the security as well ^{Final hearing.} as the principal for the amount of their respective liabilities.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 23d, 1839.] *Speaker of the Senate.*

CHAPTER XLIV.

An Act to amend an act entitled an act declaring Ocoee river navigable.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Ocoee river, in the county of Bradley, be, and the same is hereby declared navigable from its mouth to a place known by the Standing Rock, in said river. ^{Ocoee river.}

SEC. 2. *Be it enacted,* That each and every person or persons erecting or have erected or may hereafter erect, or have erected mill-dams across said river, shall be compelled to make and keep in repair a slope or gate in said dams at least forty feet wide, so as to admit of boats, rafts, or any water crafts to pass down said river. ^{Mill-dams.}

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 19th, 1839.] *Speaker of the Senate.*

CHAPTER XLV.

An Act prescribing the manner in which the laws of other States of this Union shall be received as evidence in this State.

Be it enacted by the General Assembly of the State of Tennessee, That the courts of this State may judicially take notice of the statutes and laws of the other States of this Union, and the book purporting to be the public printed statute book of any State or Territory of this union may be read as evidence of the laws of such State in any controversy in this State; and it shall not be necessary in any case where a cause is carried from an inferior to a superior court to have the statutes of such State, which shall have been read in evidence in the inferior court, transcribed into the record, except where it is directed to be done in the inferior court; but ^{Statutes and laws of other States.}

the superior court may take judicial notice of such laws and statutes, and decide upon them accordingly.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 23d, 1839.] *Speaker of the Senate.*

CHAPTER XLVI.

An Act to authorize the issuance of grants in certain cases.

Duty of register
to issue grants.

Be it enacted by the General Assembly of the State of Tennessee, That it shall be the duty of the register of the Hiwassee district, and he is hereby directed to issue a grant or grants; as the case may be, to any purchaser or assignee of a purchaser, or to any enterer or assignee of an enterer of land in the Hiwassee district, for the land so purchased or entered, upon a duplicate copy of the entry, or upon the affidavit of such purchaser or assignee of such purchaser or enterer or assignee of such enterer, that the whole of the purchase money or entry money, as the case may be, required by law has been paid; and that the certificate of purchase or of entry has been lost or mislaid and cannot be found, and that he, she, or they are justly entitled to a grant for the land so purchased or entered.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 23rd, 1839.] *Speaker of the Senate.*

CHAPTER XLVII.

An Act to prohibit the practice of permitting slaves to act as if they were free persons of color.

Slaves shall not
act as free per-
sons of color.

Be it enacted by the General Assembly of the State of Tennessee, That it shall not be lawful for any person or persons to hire to any slave the time of such slave, or for any person or persons owning the legal or equitable title of any slave absolutely or for a term of time, their agents or attorneys, or other persons having the control of such slave, wilfully to permit or suffer such slave to live to him or herself as if a free person of color, or to own hogs, cows, horses,

mules or other such like description of property, or to trade in spirituous liquors, hogs, cows, horses or mules, provisions or other property as if a free person of color, or to hire him or herself out, or to work and labor, or to spend his or her time, or do other acts as if a free person of color. Any person or persons being guilty of any of the foregoing offences shall be liable to be indicted, and upon conviction thereof shall be fined in a sum not less than five dollars for each offence.

Penalty.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed December 29th, 1839.] *Speaker of the Senate.*

CHAPTER XLVIII.

An Act to amend the law of descents and distributions.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That any child or heir of a deceased person or the heirs or representatives of such, who or whose ancestor may have advanced by his or her parent or ancestor, whether by settlement or otherwise, in his life time or by testamentary provision, whether any such advancement be of real or personal estate, shall bring such advancement into contribution in the partition and distribution of the real and personal estate of such deceased person with other children, or the heirs or representatives of such.

Advancements
of real or personal
estate.

SEC. 2. *Be it further enacted,* That if any such child or heir shall be so advanced in real estate, such advancement shall be brought first into contribution in the partition of the real estate; and should the value of such advancement exceed the share of such child in the real estate under this act, then the excess shall be brought into contribution in the distribution of the personal estate; and if such advancement shall be made in personal estate, the same shall be brought into contribution in the distribution of the personal estate; and should the value of such advancement in personal estate exceed the share of such child in the personal estate under this act, then the excess shall be brought in to contribution in the partition of the real estate.

SEC. 3. *Be it enacted,* That the exercise of a power or trust vested in a parent by deed or will, whereby such parent has the right to select between his or her heirs, in the bestowment of property in favor of any one or more heirs,

Trust vested in
parent.

shall be accounted for in the distribution of property not devised or bequeathed in the same manner as other advancements under this act.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed December 30th, 1839.]

CHAPTER XLIX.

An Act to amend the several laws in relation to Tobacco inspection.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the justices of any county court in this State, two-thirds of said justices being present and voting therefor, may, at the expense of the county, purchase or rent ground, build or rent a warehouse, provide scales and weights, and all other things incident to a tobacco inspection, and allow such salaries to the inspectors as they shall judge proper, to be paid out of the money assessed for the maintenance and support of the county charges; and shall also have power to limit and appoint the time for the attendance of such inspectors at their respective warehouses.

Justices may
provide for in-
spection.

SEC. 2. *Be it enacted,* That all warehouses built or rented in pursuance of the 1st section of this act shall be deemed public warehouses, and shall be under the control and management of the county court for the county in which such warehouse may be situated.

Warehouses.

SEC. 3. *Be it enacted,* That all the profits arising from said warehouses for inspection fees and storage, and all other profits therefrom, shall be paid into the county treasury, and shall be appropriated as other monies belonging to the county.

Profits.

SEC. 4. *Be it enacted,* That the inspectors, as appointed in pursuance of this act, shall be elected annually by the county court, and shall take the oath prescribed in the act of 1799 regulating inspections of tobacco.

Election of in-
spectors.

SEC. 5. *Be it enacted,* That the several county courts in this State, after they shall have established public warehouses as now contemplated, shall have the power and are hereby required to fix the rates of storage and inspection fees upon each hogshead inspected and stored in said warehouse, two-thirds of said justices being present and voting therefor.

Rates.

SEC. 6. *Be it enacted,* That it shall be the duty of the inspectors of tobacco to examine well and carefully, by breaking in at one or more places, every hogshead, cask or

Duty of inspec-
tors.

parcel of tobacco brought to their respective warehouses for inspection; and such tobacco as they shall find good, sound and merchantable, and fit for exportation they shall cause to be immediately headed, hooped and the number, nett weight and tare, with the name of the warehouse, stamped or marked thereon, and for all tobacco so passed by them in hogsheads, they shall give to the owner thereof a receipt containing the warehouse number, gross, tare and nett weight, designating thereon the quality and kind of said tobacco, and therein oblige themselves to deliver the same to the owner or his written order when demanded.

SEC. 7. *Be it enacted*, That if any person shall fraudulently alter or change the marks or brands placed on any hogshead by the inspectors, or shall cause to be exported any hogshead or cask of tobacco stamped with a forged or counterfeit stamp, or shall take any staves, plank or heading out of any such hogshead of tobacco, stamped as herein described and contemplated, after such hogshead shall have been delivered from any of the public warehouses, or if any person shall forge or counterfeit the stamp or receipt of any inspector, or offer for sale or payment, or demand of any inspector tobacco on any such forged receipts, knowing them to be forged, shall be adjudged a felon, and on due conviction thereof in the circuit court of the county in which said offence may have been committed, shall be confined in the jail and penitentiary of this State for a period not less than two nor more than five years.

Change of brand
adjudged felony.

SEC. 8. *Be it enacted*, That nothing herein contained shall be so construed as to prevent any person from sending any tobacco out of this State without submitting the same to inspection, if they think proper to do so.

Explanation:

SEC. 9. *Be it enacted*, That nothing herein contained shall be so construed [as] to prevent any person from erecting and keeping private warehouses as heretofore.

SEC. 10. *Be it enacted*, That all laws heretofore passed in relation to tobacco inspection, so far as the same are inconsistent with the provisions of this law, be, and the same are hereby repealed.

Repeal

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 3d, 1840.]

CHAPTER L.

An Act to permanently establish the Seat of Justice in Hamilton county.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That it shall be the duty of the officers holding the election for county officers in Hamilton county in March next to open and hold an election at the several places of voting in said county for county officers, where all persons constitutionally entitled to vote for said officers may vote for the place where the permanent seat of justice of Hamilton county is to be located, namely, whether it shall remain at Dallas, or be removed to the south side of Tennessee, at or within one mile of the framed house lately occupied by Joseph Vann, a Cherokee Indian, in said county.

SEC. 2. *Be it enacted,* That at said election the town of Dallas and Vann's house aforesaid shall be put in nomination for the permanent seat of justice for said county, and all those voting for Dallas to remain the seat of justice shall write on their tickets the word Dallas, and all those voting for the removal of the seat of justice to Vann's framed house, or within one mile thereof, shall write on their tickets the word Vann's; and if, on counting out and comparing all the votes given for and against the removal there shall be a majority of twenty-five votes for Vann's, then and in that case the permanent seat of justice of Hamilton county shall be at Vann's framed house, or within one mile thereof, at such eligible site as may be determined on by commissioners hereinafter appointed; but, if on counting and comparing the votes as aforesaid, there shall not be a majority of twenty-five votes for Vann's, then the seat of justice of said county shall remain at Dallas.

SEC. 3. *Be it enacted,* That if there shall be a majority of twenty-five votes, as aforesaid, in favor of a removal of the seat of justice of said county, then and in that case Henry Gotcher, George Luttrell, William Clift, Richard Price, Jonathan Wood, Alfred M. Rogers and James A. Whitesides shall be and they are hereby appointed commissioners, who, or a majority of them, shall, on or before the first Saturday in June next, proceed to fix on a suitable and eligible site for the seat of justice and for the county town at said framed house, or within one mile thereof; and shall procure, by purchase or otherwise, a sufficient quantity of land on which to erect all public buildings for said county at the place so selected, for which they shall cause a deed or deeds to be made to them and their successors in office, by general warranty.

SEC. 4. *Be it enacted,* That it shall be the duty of said

commissioners to cause a town to be laid off at the place selected, with as many streets and of such width as they may deem necessary, reserving a sufficient quantity of land for a public square, and separate lot on which to build a jail; and the said town, when laid off, shall be known by such name as may be given to it by said commissioners herein appointed. Laying off of town.

SEC. 5. *Be it enacted*, That the commissioners shall sell the lots in said town on a credit of twelve months, first giving due notice thereof in one or more newspapers, and shall take bond, with sufficient securities, from the purchasers of said lots, payable to themselves and their successors in office, and retain a lien upon the lots for the purchase money; and when the purchase money is paid, shall make title in fee simple, as commissioners, to the respective purchasers of said lots: *Provided*, that said commissioners may require ten per cent. of the purchase money to be paid at the time of the sale of said lots. Sale of lots.

SEC. 6. *Be it enacted*, That the proceeds of the sales of the lots aforesaid shall be a fund in the hands of said commissioners for defraying the expense incurred in the purchase of said tract of land on which the seat [of justice] is located, and for laying off the town, and also for defraying the expenses of erecting the public buildings; and said commissioners shall superintend the building of the court house, jail and other necessary public buildings, and shall let out such buildings as the county court in said county shall order to be built, and shall take bonds with sufficient securities from the person or persons to whom the same may be let, payable to themselves and their successors in office, in a sum double the amount of the contract, conditioned for the faithful performance of his or their contracts. Proceeds of sales

SEC. 7. *Be it enacted*, That said commissioners, before they enter upon the duties of their offices assigned them by this act, shall take an oath or affirmation that they will, truly and faithfully execute and perform the different duties by this act enjoined on them, according to the best of their judgment, and moreover shall enter into bond with approved security, payable to the chairman of the county court of Hamilton county and his successors in office, in the sum of ten thousand dollars, conditioned for the due and faithful performance of the duties enjoined upon them by this act. Commissioners' bonds.

SEC. 8. *Be it enacted*, That the said commissioners shall keep a fair and accurate statement of all monies by them received and expended, and shall annually report all their proceedings to the county court; and when the necessary public buildings are completed the said commissioners, by order of the county court, shall pay over all surplus money remaining in their hands to the county trustee for county purposes; and they shall be allowed by the county court a Public monies.

reasonable compensation for their services, to be paid out of the proceeds of the sales of the lots.

Vacancies. SEC. 9. *Be it enacted*, That should a vacancy happen by death, resignation or otherwise, the county court of said county is hereby authorized to fill such vacancy by the appointment of other commissioners, who shall take the same oath and perform the same duties as are prescribed by this act.

County tax. SEC. 10. *Be it enacted*, That if the money arising from the sale of lots be insufficient to pay for building said court house and prison, it shall and may be lawful for the county court of said county, a majority of the justices concurring therein, to lay a county tax, not exceeding the State tax which may be continued from year to year until a sufficient sum be raised to pay for said buildings, which tax shall be collected by the sheriff under the same rules and regulations as other taxes, and shall by him be paid over to said commissioners for said purpose; and if the sheriff shall fail to pay over the same he shall be liable to judgment, on motion against him and his securities in the name of said commissioners, in the same manner as for failing to pay over other taxes.

Election returns SEC. 11. *Be it enacted*, That the officer holding said election shall make a return of the number of votes given in said election for and against a removal of the seat of justice, to the county court of said county on the first Monday of April next, and the said county court, at that or some subsequent session, shall adjourn their court to meet at the place selected by said commissioners, if that place shall have been elected as aforesaid; and shall direct, by an order of court, all the county officers who are required to keep their offices at the county seat, to move their offices with all records and papers belonging thereto to the place to which the court may adjourn.

County court. SEC. 12. *Be it enacted*, That the county court when they adjourn their court as directed by this act, shall direct their clerk to notify the clerk of the circuit court of said county of such adjournment, and the place to which they have adjourned, and the clerk of the circuit court shall give the judge of said circuit court the same notice, and thereupon the judge of the circuit court for said county shall hold the circuit court of said county at the place to which the county court may have adjourned, and the clerk of said circuit court shall move all the records and papers of his office to the place so selected, to be there kept; and all writs recognizances, and other process made returnable to Dallas, and not there returned before the adjournment of said court, shall be returned to the place to which said court is adjourned, and shall be as good and effectual as if made returnable to said place so adjourned to; and no writ,

recognizance, process, or other proceeding, shall abate or otherwise be annulled or rendered void by reason of such adjournment or removal.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed January 3d, 1840.]

CHAPTER LI.

An Act to exempt certain persons from military duty.

Be it enacted, That the members of the Union Fire Company, No. 3, of the town of Nashville, shall be subject to all the provisions and entitled to all the benefits of an act entitled "an act to exempt certain persons from military duty," passed November 25th, 1829.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed December 24th, 1839.]

CHAPTER LII.

An Act making an appropriation of money to Richard G. Scoggin.

Be it enacted by the General Assembly of the State of Tennessee, That the Comptroller of the Treasury issue to Richard G. Scoggin his warrant upon the Treasury for three hundred and nine dollars and fifty cents, as compensation for that amount expended by said Scoggin in causing Jesse Stanford, a fugitive from justice, charged with the crime of grand larceny in Giles county, to be conveyed from the city of New-Orleans to the town of Pulaski, in this State, under an order from the Governor of this State; and that the same be paid out of any money in the Treasury appropriated.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed January 6th, 1840.]

CHAPTER LIII.

An Act for the relief of John W. Fowler.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the sum of one hundred and ninety-six dollars be, and the same is hereby allowed to John W. Fowler, sheriff of Shelby county, for monies expended by him in pursuing James M. Lundre, a fugitive from justice, into the State of Mississippi.

SEC. 2. *Be it enacted, &c.* That the Comptroller of the State be, and he is hereby directed, to issue to said Fowler a warrant for the same, to be paid out of any money in the Treasury not otherwise appropriated.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 7th, 1840.]

Speaker of the Senate.

CHAPTER LIV.

An Act for the relief of females, and to authorize the granting of divorces in certain cases.

Divorce.

Be it enacted by the General Assembly of the State of Tennessee, That hereafter in all cases where any female may have removed to this State, or may hereafter remove to this State, and shall be of good character, and shall have resided in this State for two years next before filing her petition, and where such female shall have been abandoned for two whole years next before filing her petition, maliciously and without any reasonable cause, or her husband shall have been guilty of any of the acts constituting a good cause for a divorce by the laws of this State, it shall be the duty of the judge to grant such petitioner a divorce, notwithstanding such causes for a divorce may have occurred in another State.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 6th, 1840.]

Speaker of the Senate.

CHAPTER LV.

An Act to repeal the sixth section of an act passed on the 19th day of January, 1838, entitled "an act to amend an act entitled an act to incorporate the inhabitants of the town of Knoxville, in the county of Knox, passed October 27th, 1815."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the said sixth section of the act of 1838, above referred to, be, and the same is hereby repealed. Repeal.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 20th, 1840.] *Speaker of the Senate.*

CHAPTER LVI.

An Act to condense and bring into one view the Militia law of the State of Tennessee.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the white male inhabitants of this State between the age of eighteen and forty-five shall compose the militia thereof; *Provided*, that the judges of the supreme, chancery and circuit courts, the clerks of any court of record, Secretary of State, Comptroller, State and county treasurers, acting justices of the peace, sheriffs, ordained ministers of the gospel, post masters and carriers of the mail, public ferry keepers, jailors, keepers of grist mills and toll gates, and the commissioners of common schools, and all persons now exempt by law, shall be exempt from military duty except in cases of invasion or insurrection; *provided*, that persons belonging to any religious denomination whose tenets are opposed to the bearing of arms shall be exempted from attending any muster, but in time of war shall be liable to be drafted as other citizens, and in case of failure, shall be liable to the same penalties. Exempts

SEC. 2. The militia residing in each of the companies that have been heretofore laid off, or may hereafter be laid off in the several counties in this State, shall be commanded by one captain, one first and one second lieutenant and one ensign, three corporals and three sergeants, to be elected by those in each company liable to perform military duty, and to hold their offices five years and until their successors shall be elected, unless, upon good cause shown to the commandant of the regiment in writing, they are by him permitted sooner to resign; and the field officers of each regiment may meet together and make any division of their regiments Officers of companies.

and battalions into companies, by establishing the civil districts as companies, or dividing districts, establishing the old boundaries of companies by forming them of the fractional parts of civil districts, or in any other manner best calculated to suit the convenience of the people; *Provided*, that the number of each company shall not be less than forty-five privates, and they shall also designate the places for holding company musters.

Elections.

SEC. 3. The election for company officers under this act shall be held by the constable of each district, and if there should be two companies in a district, he shall depute some other person to hold one of them, at the place designated to hold company musters, or at some other convenient place within the bounds of said company, after giving at least ten days public notice of the place and time; and when a vacancy occurs in any of said company offices, by expiration of time, removal out of the company, or absence from the same one year at any one time, death or resignation, or any other cause, the commandant of the regiment shall issue his writ of election to the constable of the district, who shall immediately advertise the same at four of the most public places in the company, one of which shall be at the company muster ground, and if the muster ground shall not be suitable for holding such election, one at the place where the election is to be held, that he will hold an election to fill said vacancy, and shall advertise at least ten days before the day on which said election is held; *Provided*, that sergeants and corporals may be elected on any muster day, under the direction of the captain, without previous notice, by the militia who are present.

Judges of elections.

SEC. 4. The constable holding an election for company officers shall appoint three persons of good character to act as judges, one of whom may perform the duties of clerk, or they may select any other person to act as clerk; the polls shall be opened at eleven o'clock and closed at three the same day; the judges and constable shall certify to the commandant of the regiment the number of votes given for each candidate, and if two or more shall receive the same and the highest number of votes, the commandant shall decide the contest; and if any one shall have a higher number of votes than his competitors, he shall be declared to be elected, and the commandant of the regiment shall certify the result of the election to the Governor, by whom they shall be commissioned; but the said elections shall not be certified to the Governor until after the expiration of five days from the time the return is received by the commandant, during which time any opposing candidate shall have the privilege of contesting the election, by filing his reason on oath with the commandant, whose duty it shall be to call a court martial to determine said contested elec-

Contesting elections.

tion; and if it shall appear to the satisfaction of said court that the person whose election shall have been contested did receive a number of illegal votes, which, when deducted, would give a majority of legal votes to any other candidate, then said court shall report to the returning officer in favor of the candidate having the greatest number of legal votes, and the Governor shall commission him accordingly; and in all cases of illegal proceedings the election shall be declared void, and the court shall order the proper officer to issue a writ of election to fill the vacancy, giving legal notice of the time and place; and if the party contesting such election shall fail to establish his charge or cause of contest, in that case the court shall report to the returning officer in favor of the person whose election was contested, who shall be commissioned by the Governor; *Provided always*, that either party shall have the right to appeal from the decision of any court martial in which they may think themselves aggrieved; the court martial when called shall consist of at least twelve members, two of whom shall be captains, where a major or lieutenant colonel shall preside, and shall be conducted as other regimental courts martial.

SEC. 5. There shall be two company musters held in each year, one on the Saturday preceding the battalion muster in each battalion, and one on the Saturday preceding the regimental muster in each regiment; the musters shall be held at the places designated by the field officers until altered by a vote of the majority of the company to some other place in the bounds of the company.

SEC. 6. *Be it enacted*, That there shall be a battalion muster in each battalion of this State in the month of April in each and every year; the first battalion in the regiment first in number in each county shall hold a muster on the first Friday in April, the second battalion on the next day, and the third battalion, if there shall be three in any regiment, on the next Thursday; and the first battalion in the regiment next in number, if there should be two regiments in the county, on the second Friday in April, and the second battalion on the next day; and the first battalion in the regiment next in number in the county, if there should be three regiments therein, on the third Friday in April, and the second battalion on the next day; and the first battalion of the regiment next in number in the county, if there should be four regiments therein, on the fourth Friday in April, and the second battalion on the next day; and the first battalion in the regiment next in number in the county, if there should be five regiments therein, on the Friday following, and the second battalion on the next day; *Provided*, the regimental court martial in each regiment shall have power to exempt any company from attending regi-

mental and battalion musters, two-thirds of all the officers voting in the affirmative.

Field officers of Fentress. SEC. 7. It shall be the duty of the field officers in the county of Fentress to attend at the first battalion muster ground on the Saturday before the regimental muster and muster that battalion, and they shall be excused from attending the regimental muster.

Removal of muster places. SEC. 8. The places of holding battalion and regimental musters shall not be changed or removed but by a vote of two-thirds of the officers present at a regimental court martial; and it shall be the duty of the field officers, if the convenience of the militia requires it, to divide their regiment into three battalions, in which case the third battalion shall be commanded by the lieutenant colonel, the first by the first major, and the second by the second major.

Regiments. SEC. 9. The militia of the county of Johnson shall compose the 1st regiment; the county of Carter the 2d; the county of Sullivan the 3d and 4th; the county of Washington the 5th and 6th; the county of Greene the 7th and 8th; the county of Hawkins the 9th, 10th and 11th; the county of Cocke the 12th; the county of Jefferson the 13th and 14th; the county of Grainger the 15th and 16th; the county of Claiborne the 17th and 18th; the county of Sevier the 19th; the county of Blount the 20th and 21st; the county of Knox the 22d and 23d; the county of Anderson the 24th; the county of Campbell the 25th; the county of Monroe the 26th and 27th; the county of Roane the 28th and 29th; the county of Morgan the 30th; the county of M'Minn the 31st, 32d and 33d; the county of Meigs the 34th; the county of Rhea the 35th; the county of Bledsoe the 36th; the county of Hamilton the 37th; the county of Marion the 38th; the county of Franklin the 39th, 40th and 41st; the county of Warren the 42d and 43d; the county of White the 44th and 45th; the county of Fentress the 46th; the county of Overton the 47th and 48th; the county of Jackson the 49th and 50th; the county of Smith the 51st, 52d and 53d; the county of Sumner the 54th, 55th and 56th; the county of Wilson the 57th, 58th, 59th, 60th and 138th; the county of Rutherford the 61st, 62d, 63d and 64th; the county of Bedford the 65th, 66th, 67th and 139th; the county of Coffee the 68th; the county of Cannon the 69th; the county of Lincoln the 70th, 71st, 72d, 73d and 151st; the county of Giles the 74th, 75th and 76th; the county of Maury the 77th, 78th, 79th, 80th and 142d; the county of Williamson the 81st, 82d, 83d and 84th; the county of Davidson the 85th, 86th, 87th and 88th; the county of Robertson the 89th and 90th; the county of Montgomery the 91st and 92d; the county of Stewart the 93d and 94th; the county of Humphreys the 95th; the

county of Dickson the 96th; the county of Hickman the 97th and 98th; the county of Perry the 99th and 100th; the county of Wayne the 101st and 102d; the county of Lawrence the 103d and 104th; the county of Hardin the 105th and 106th; the county of M'Nairy the 107th and 108th; the county of Henderson the 109th and 110th; the county of Carroll the 111th and 112th; the county of Benton the 113th; the county of Henry the 114th and 115th; the county of Weakley the 117th and 118th; the county of Gibson the 119th, 120th, 149th and 150th; the county of Madison the 121st, 122d and 123d; the county of Harde-man the 124th and 125th; the county of Fayette the 126th and 127th; the county of Shelby the 128th and 129th; the county of Tipton the 130th and 131st; the county of Hay-wood the 116th, 132d and 133d; the county of Lauderdale the 134th and 135th; the county of Obion the 136th; the county of Dyer the 137th; the county of Marshall 140th, 143d and 147th; the county of DeKalb the 141st; the county of Bradley the 144th and 148th; the county of Van Buren the 145th; the county of Powell the 146th, and the county of Polk the 152d.

SEC. 10. *Be it enacted*, That there shall be a regimental muster held in each regiment in this State in the month of October, in each and every year, as follows, except in such regiments as are otherwise provided for by this act, to wit: the regiment first in number in each brigade shall hold a muster on the first Thursday in October, and the regiment next in number in said brigade on the next day, and so on in the regular order of their number, mustering every day (Sunday excepted) until all the regiments in each brigade are through.

Regimental
musters.

SEC. 11. *Be it enacted*, That the regimental musters in the first brigade shall be held in each and every year, as follows: in the first regiment in the county of Johnson on the Thursday preceding the first Monday in October; in the second regiment in the county of Carter on the next Saturday; in the third regiment in the county of Sullivan on the Tuesday after the first Monday in October; in the fourth regiment in the same county on Wednesday the next day; in the fifth regiment in the county of Washington on the next Friday; and in the sixth regiment in the same county on Saturday the next day.

First brigade.

SEC. 12. *Be it enacted*, That the regimental musters in the second brigade shall be held in each and every year, as follows: in the seventh regiment in the county of Greene on the second Monday in October; in the eighth regiment in the same county on Tuesday the next day; in the twelfth regiment in the county of Cocke on Wednesday the next day; in the thirteenth regiment in the county of Jefferson

Second brigade.

on Thursday the next day; and in the fourteenth regiment in the same county on Friday the next day.

Third brigade. SEC. 13. *Be it enacted*, That the regimental musters in the third brigade shall be held in each and every year, as follows: in the one hundred and forty-sixth regiment in the county of Powell on the first Monday in October; in the ninth regiment in the county of Hawkins on Tuesday the next day; in the tenth regiment in the same county on Wednesday the next day; in the eleventh regiment in the same county on Thursday the next day; in the fifteenth regiment in the county of Grainger on Friday the next day; and in the sixth regiment in the same county on Saturday the next day.

Fourth brigade. SEC. 14. *Be it enacted*, That the regimental musters in the fourth brigade shall be held in each and every year, as follows: in the seventeenth regiment in the county of Claiborne on the second Monday in October; in the eighteenth regiment in the same county on Tuesday the next day; in the twenty-fifth regiment in the county of Campbell on the next Thursday; in the twenty-fourth regiment in the county of Anderson on Friday the next day; in the thirtieth regiment in the county of Morgan on Saturday the next day.

Fifth brigade. SEC. 15. *Be it enacted*, That the regimental musters in the fifth brigade shall be held in each and every year, as follows: in the nineteenth regiment in the county of Sevier on the Saturday immediately preceding the first Monday in October; in the twenty-second regiment in the county of Knox on the Wednesday after the first Monday in October; in the twenty-third regiment in the same county on Thursday the next day; in the twentieth regiment in the county of Blount on Friday the next day; and in the twenty-first regiment in the same county on Saturday the next day.

Sixth brigade. SEC. 16. *Be it enacted*, That the regimental musters in the sixth brigade shall be held in each and every year, as follows: in the twenty-sixth regiment in the county of Monroe on the second Monday in October; in the twenty-seventh regiment in the same county on Thursday the next day; in the twenty-eighth regiment in the county of Roane on the next Thursday; in the twenty-ninth regiment in the same county on Friday the next day; in the thirty-first regiment in the county of M'Minn on the third Monday in October; in the thirty-third regiment in the same county on Tuesday the next day; in the thirty-second regiment in the same county on Wednesday the next day; in the one hundred and fifty-second regiment in the county of Polk on Thursday the next day; in the one hundred and forty-eighth regiment in the county of Bradley on Friday the next day; and in the one hundred and forty-fourth regiment in the same county on Saturday the next day.

SEC. 17. *Be it enacted*, That the regimental musters in the seventh brigade shall be held in each and every year, as follows: in the thirty-fourth regiment in the county of Meigs on the Tuesday after the first Monday in October; in the thirty-fifth regiment in the county of Rhea on Wednesday, the next day; in the thirty-sixth regiment in the county of Bledsoe on Thursday the next day; in the thirty-eighth regiment in the county of Marion on the next Saturday; and in the thirty-seventh regiment in the county of Hamilton on the next succeeding Tuesday. Seventh brig.
ado.

SEC. 18. *Be it enacted*, That the regimental musters in the twelfth brigade shall be held in each and every year, as follows: the seventy-eighth regiment in the county of Maury on the Monday after the second Friday in September; the seventy-seventh regiment in the same county on Tuesday the next day; the one hundred and forty-second regiment in the same county on Wednesday the next day; the seventy-ninth regiment in the same county on Thursday the next day; the eightieth regiment in the same county on Friday the next day; the one hundred and fortieth regiment in Marshall county on Saturday the next day; the one hundred and forty-seventh regiment in the same county on the Monday following; the one hundred and forty-third regiment in the same county on Tuesday the next day; the one hundred and thirty-ninth regiment in the county of Bedford on Wednesday the next day; the sixty-sixth regiment in the same county on Thursday the next day; the sixty-fifth regiment in the same county on Friday the next day; and the sixty-seventh regiment in the same county on Saturday the next day. Twelfth brig.
ado.

SEC. 19. *Be it enacted*, That the regimental musters in the eleventh brigade shall be held in each and every year, as follows: in the seventieth regiment in the county of Lincoln on the third Tuesday in September; in the seventy-first regiment in the same county on Wednesday the next day; in the one hundred and fifty-first regiment in the same county on Thursday the next day; the seventy-second regiment in the same county on Friday the next day; the seventy-third regiment in the same county on Saturday the next day; the seventy-fourth regiment in the county of Giles on the Monday following; the seventy-fifth regiment in the same county on Tuesday the next day; and the seventy-sixth regiment in the same county on Wednesday the next day. Eleventh brig.
ado.

SEC. 20. *Be it enacted*, That the times of holding regimental musters in the fifteenth brigade shall be as follows: the ninety-first regiment in Montgomery county on the first Thursday in October; the ninety-second regiment on the following Saturday; the ninety-third regiment in Stewart county on the following Wednesday; the ninety-fourth re- Fifteenth brig.
ado.

giment on the next day; the ninety-fifth regiment in Humphreys county on the following Saturday; and the ninety-fourth regiment on the next Saturday.

Seventeenth
brigade.

SEC. 21. *Be it enacted*, That the regimental musters for the seventeenth brigade shall be held as follows, to wit: for the county of Hickman on the first Friday and Saturday in October; for the county of Wayne on the next Friday and Saturday; for the county of Hardin on the next Friday and Saturday; for the county of Lawrence on the next Friday and Saturday. The regiment highest in number shall muster first.

Ninth brigade.

SEC. 22. *Be it enacted*, That the regimental musters, and the company musters preceding the regimental musters in the ninth brigade, shall be held as follows: each company shall hold a muster on the third Saturday in September in each and every year; the regimental muster in the fifty-first regiment shall be held on the fourth Tuesday in September; the fifty-second on the succeeding day; the fifty-third on Thursday the next day; the fifty-seventh on the Saturday following; the fifty-eighth on the next Tuesday; the fifty-ninth on the Thursday following; the fortieth on the succeeding Saturday; and the one hundred and thirty-eighth on the next Saturday.

Officers of regi-
ments.

Election of field
officers.

Vacancies.

Constable's duty

SEC. 23. Each of the regiments in this State shall be commanded by one colonel commandant, one lieutenant colonel, one first and one second major, who shall be commissioned by the Governor and hold their offices six years from their election, and shall not sooner resign without good cause shown in writing to the brigadier general, and by him approved and filed. In the election of field officers all persons liable to perform military duty in the bounds of the regiment shall be entitled to vote; but majors shall be elected by the militia of each battalion, and shall reside in and command the same; and when any of the field offices shall become vacant by the expiration of the term of service, removal out of the regiment or battalion, resignation, death, or absence from the regiment or battalion one whole year at any one time, or from any other cause, on application of any person in the regiment or battalion, as the case may be, and he being satisfied of the fact, the brigadier general of the brigade to which such regiment or battalion is attached, shall issue his writ of election to the sheriff of the county in which said vacancy has occurred, commanding him to open and hold an election at the different places of holding county elections in the regiment or battalion to fill such vacancy. The constable of each district, or such other person as the sheriff may appoint, shall hold said election at the places designated for the election of district and county officers in each district, and the election shall be advertised at every place designated herein for holding the same, and

at other public places, by the sheriff, at least twenty days before it takes place. The constable, or other persons holding the election in the different districts, shall conduct the same in all respects as they are herein directed to conduct and hold elections for company officers, and shall on the same or the next day deliver to the sheriff, or if he should be a candidate, to the coroner, the certificate of the judges, countersigned by himself, setting forth the number of votes received for each candidate, who shall on the same day make out a general certificate of the number of votes polled for each candidate in the regiment or battalion, as the case may be, and deposit a copy thereof in the office of the clerk of the county court, and forward another to the brigadier general, or if he should be absent or his place vacant, then to the Governor of the State. When two or more candidates shall have the same and the highest number of votes, the officer to whom the return is made shall, within ten days after he shall have received the return, decide who shall have the place; any opposing candidate desiring to contest an election shall file his reasons with the officer to whom the return is made within ten days from the time the return is received, which reasons shall be on oath; and if believed to be sufficient, a court martial shall be detailed to determine the matter, and they shall report the result of their investigation to the officer by whom the court was detailed; and such court martial shall be governed by the same rules and principles that are prescribed in this act. In twelve days after the brigadier general receives the return of the sheriff, or in five days after he receives the report of a court martial from which no appeal is taken, in case of a contested election, he shall certify to the Governor the name of the person elected, who shall be immediately commissioned.

Candidates
having the same
number of votes.

Contested elec-
tions.

SEC. 24. *Be it enacted*, That it shall be the duty of each field, staff and company officer and musician, except the surgeon and judge advocate, to attend twice in every year at the regimental muster ground at eleven o'clock on the days following, to wit: once on the Saturday preceding the first company muster in each regiment before the regimental musters, and once on the Saturday preceding the first company muster of the first battalion of each regiment, before the battalion musters officers shall attend armed with a good rifle or smooth bored gun, and uniformed as required by this act, for the purpose of being drilled by the colonel commandant, or such other person as he may think proper to appoint for that purpose, at least three hours in each day; and it shall be the duty of the adjutant each day to call the roll and note down all delinquents, and report the same to the next regimental court martial; and it shall be the duty of the officer presiding at such court to cause such delinquents to be called, and upon the failure of any such

Field officers to
attend musters.

delinquents to attend with a good and lawful excuse, if he be a field officer, he shall be fined in a sum not less than five dollars nor more than fifteen; any officer below the grade of a field officer shall be fined in a sum not less than one dollar nor more than five dollars; and if a musician, he shall be fined in a sum not less than two nor more than ten dollars, for each time they may have failed to attend.

SEC. 25. The State shall be divided into the following **Boundaries of brigades** brigades, to wit: the counties of Johnson, Carter, Washington and Sullivan shall constitute the first brigade; the counties of Greene, Jefferson and Cocke shall constitute the second brigade; the counties of Hawkins, Grainger and Powell shall constitute the third brigade; the counties of Claiborne, Campbell, Anderson and Morgan shall constitute the fourth brigade; the counties of Knox, Sevier and Blount shall constitute the fifth brigade; the counties of Roane, Monroe, M'Minn, Bradley and Polk shall constitute the sixth brigade; the counties of Rhea, Meigs, Bledsoe, Marion and Hamilton shall constitute the seventh brigade; the counties of Fentress, Overton, White and Jackson shall constitute the eighth brigade; the counties of Smith and Wilson shall constitute the ninth brigade; the counties of Warren, Cannon, Coffee, Van Buren and Franklin shall constitute the tenth brigade; the counties of Lincoln and Giles shall constitute the eleventh brigade; the counties of Bedford, Marshall and Maury shall constitute the twelfth brigade; the counties of Rutherford and Williamson shall constitute the thirteenth brigade; the counties of Sumner and Robertson shall constitute the fourteenth brigade; the counties of Montgomery, Stewart and Humphreys shall constitute the fifteenth brigade; the counties of Davidson and Dickson shall constitute the sixteenth brigade; the counties of Hickman, Hardin, Wayne and Lawrence shall constitute the seventeenth brigade; the counties of Henry, Carroll and Benton shall constitute the eighteenth brigade; the counties of Dyer, Gibson and Weakley shall constitute the nineteenth brigade; the counties of Perry, Henderson and Madison shall constitute the twentieth brigade; the counties of Haywood, Tipton and Lauderdale shall constitute the twenty-first brigade; the counties of M'Nairy, Hardeman, Fayette and Shelby shall constitute the twenty-second brigade.

SEC. 26. The first, second, third, fourth, fifth, sixth and seventh brigades shall compose the first division; the eighth, ninth, fourteenth, fifteenth and sixteenth brigades shall compose the second division; the tenth, eleventh, twelfth, thirteenth and seventeenth brigades shall compose the third division; the eighteenth, nineteenth, twentieth, twenty-first and twenty-second brigades shall compose the fourth division. **Boundaries of divisions.**

SEC. 27. Whenever a vacancy shall occur in the office of brigadier general, by expiration of his time, removal out of his brigade, or absence from the same twelve months at any one time, death, resignation or any other means, on application to the major general, or if he be absent from the State or his office vacant, to the Governor, he shall issue a writ to the sheriffs of the counties constituting the brigade, commanding that after giving thirty days notice at all the company, battalion and regimental muster grounds in his county, that he open and hold an election at all the places of holding elections for county officers, to fill such vacancy; the sheriffs shall command the constables of each district, or some other person, to hold the election therein; the said election shall in all respects be conducted as elections for field and company officers. The persons holding the elections shall on the same or next day return, under the hands of the judges, a full statement of the polls to the sheriff, who shall immediately make out a general certificate of the vote of his county, showing the number of votes received for each candidate, and forward the same without delay to the major general of his division, or if there should be a vacancy in that office or he should be absent from the State, to the Governor; if two or more candidates shall have an equal and the highest number of votes, the officer to whom the return is made shall decide who shall have the office. Fifteen days shall be allowed to contest the election by any opposing candidate, and the contest shall be conducted and decided in all respects like a contested election for regimental officers. Immediately after fifteen days shall have closed from the time the return is received, or the report of a court martial detailed for the decision of a contested election, is filed with the officer ordering the same, a commission shall be made out, if it should be made to the Governor, and if to the major general, he shall certify to the Governor the result of the election, whereupon a commission shall immediately issue. In addition to the duties heretofore required of the brigadier general, he shall hereafter be required to attend all the regimental musters in his brigade in full uniform, for the purpose of reviewing the militia; if he should fail to perform this duty, he shall pay a fine of not less than ten nor more than twenty-five dollars for each regiment he shall fail to attend, to be determined by the next regimental court martial: *Provided*, he shall have five days notice to attend, and show his reasons for neglect of duty, which shall be judged of by the said court.

Vacancies of
brigadier gener-
al.

Additional duty
of brigadier gen-
eral.

SEC. 28. Each of said divisions shall be commanded by one major general; the major generals hereafter elected shall hold their office for eight years, and shall not resign under five years from the time of their election, except upon good and sufficient reasons, to be judged of and accepted

Major generals.

Vacancy.

by the Governor and to be filed in his office. In case of a vacancy, by expiration of time, resignation, death or otherwise, the Governor, on being satisfied of the fact, shall issue his writs to the sheriffs of the various counties composing the division, commanding that an election be held at all the places of holding elections, after giving forty days notice at such places, and in some one or more newspapers, to fill such vacancy, which election shall in all respects be conducted and managed as elections to fill vacancies in the office [of] brigadier generals; the sheriffs shall make their returns to the Governor immediately after such elections, but the Governor shall not issue a commission until after the expiration of fifteen days from the time of receiving such returns, during which time any opposing candidate may contest the election, in which case the same shall be decided as prescribed for the case of a contested election of brigadier general; the candidate receiving the highest number of legal votes shall be declared to be elected, but if two or more candidates have an equal and the highest number of votes, the Governor shall decide who shall have the office, and issue his commission accordingly.

Officers—their certificate.

SEC. 29. All officers required by this act to be commissioned shall act upon the certificate of their election from the sheriff or other person holding the election where the command is confined to the county or regiment, but where the command extends to the militia of more than one county then such officer may act upon the certificate of the officer to whom the return is made, until his commission is secured.

Uniform of field officers.

SEC. 30. *Be it enacted*, That the uniform of the generals and generals' staff and field officers of the militia of this State shall be the same as that of officers of the same grade in the United States' army, but captains, regimental staff and subaltern officers may or may not uniform themselves at their option.

Ferriage and tolls.

SEC. 31. *Be it enacted*, That it shall not be lawful for keepers of public ferries or toll-gates to exact or receive any ferriage or toll from any person subject to perform military duty going to or returning from any drill or muster, or any military election or court martial.

Sheriffs, constables, &c.

SEC. 32. *Be it enacted*, That if any sheriff, constable or other officer shall fail to perform any of the duties as in this act required of him, he shall be liable to presentment or indictment, and on conviction shall be fined not less than five nor more than fifty dollars.

Fines.

SEC. 33. *Be it enacted*, That fines inflicted under this act shall be as follows, to wit: without a reasonable excuse, on a major general or division staff officer, for failing to perform any of the duties assigned them by this act, a sum not less than twenty dollars nor more than seventy-five

dollars; on a brigadier general or brigadier staff officer, a sum not less than fifteen dollars nor more than fifty dollars; on a field officer or regimental staff officer, not less than five dollars nor more than thirty dollars; on a captain or subaltern officer, a sum not less than two nor more than fifteen dollars; on a non-commissioned officer, musician or private, at a company muster, not more than one dollar nor less than fifty cents; at a regimental or battalion muster, not more than three dollars nor less than seventy-five cents; *Provided*, in all cases where the fine to be assessed upon any person is for not bearing arms, then and in that case the courts martial are vested with the discretionary power either to fine or not.

SEC. 34. *Be it enacted*, That when the officers of a battalion fail to hold battalion court martials, for the want of officers or otherwise, it shall be the duty of the officers to return all delinquencies that may have happened in their battalion musters to the next regimental court martial, when the same shall be tried. Battalion officers.

SEC. 35. *Be it enacted*, That it shall be the duty of the judge advocate of the regiment to call the roll of the commissioned officers at the regimental and battalion court martials, and note down all delinquents as to absence or otherwise, and report the same to the next regimental court martial, whose duty it shall be to hear and determine the same. Judge advocate's duty.

SEC. 36. *Be it enacted*, That there shall be one provost martial appointed in each regiment in this State by the colonel commandant, whose duty it shall be, in addition to the duties assigned him by this act, to collect the fines and forfeitures due the regiment, and pay over the same to the judge advocate of the regiment, and shall have full power to collect by execution from the judge advocate, or otherwise, which shall be good and valid in law, for which he shall be entitled to the same fees and emoluments as other collecting officers, and shall settle with the judge advocate at least once in every year; before the provost martial shall enter upon the duties assigned him by this act he shall enter into bond in the sum of five hundred dollars, payable to the commandant of the regiment and his successors in office, with two or more good securities, and shall take an oath of office before the judge advocate of the regiment faithfully to discharge the duties of his office. Provost martial.

SEC. 37. *Be it enacted*, That the persons who are liable to perform military duty living between Reel-foot lake and the Mississippi river, in Obion county, shall not be compelled to attend regimental or battalion musters in time of peace. Obion militia.

SEC. 38. *Be it enacted*, That the commissioned officers of companies shall have power to hold courts martial when they may deem it necessary, or any two of them, and the Courts martial.

senior officer present shall preside and administer all necessary oaths, and receive fines by them adjudicated; which fines, when collected, shall be appropriated for the purpose of furnishing said company with drum, fife and colors, or so much as will be required for that purpose; and the commanding officers of companies shall keep a record of all persons on whom fines are assessed, a copy of which shall be returned to the judge advocate, on which said judge advocate shall issue his execution; any person who may deem themselves aggrieved by the sentence of any company court martial shall have the right of appeal within twenty days thereafter to the regimental or battalion court martial as the case may be.

SEC. 39. *Be it enacted,* That in all cases hereafter when any company shall fail or refuse to elect their company officers, it shall be the duty of the major of the battalion to which said company belongs to attend in the spring and fall at the muster ground of said company on the days specified for company musters, when he shall train and drill such company at least three hours each day; and if more than one company in any battalion shall fail or refuse to elect their officers as aforesaid, it shall be the duty of the lieutenant colonel to attend and drill one of said companies as aforesaid; and if more than two companies shall fail or refuse to elect their officers, it shall be the duty of the colonel commandant of the regiment to attend and drill said company; and if any of said field officers should be absent or sick, or their offices vacated; so that they cannot attend, or there should be more companies without officers than it is possible for said officers to attend and drill on the day specified for company musters, then and in either of such cases it shall be the duty of said officers to appoint some other day or days for the mustering of such company or companies, which day or days shall be appointed to come on or before the battalion muster in the spring, and before the regimental muster in the fall; of which change they shall give at least ten days notice, by advertising the same at three of the most public places in said company, and it shall be the duty of all those subject to military duty to attend and muster as in other cases; and it shall be the duty of the constable in the civil district in which any such company may be situated to make out and furnish to the colonel commandant of the regiment, or to the major of the battalion to which said company belongs, a complete list of all those subject to military duty in the bounds of said company, and at the first or any subsequent muster at which any of said field officers may attend it shall be the duty of said officers to propose to such company to elect an orderly sergeant, and if they should fail or refuse to do so, it shall be the duty of the field officer to appoint one, and in either

Company officers.

Company lists.

case it shall be the duty of said sergeant to continue in office for five years, or until the company shall think proper to choose other officers, unless he is permitted sooner to resign by the commandant of the regiment, in which event his vacancy shall be filled as above directed; and it shall be the duty of such orderly sergeants to keep the company roll and assist the field officers in the performance of their duty, and upon failure or refusal to do so, it shall be the duty of the officer to report him to the next battalion or regimental court martial, when he shall be fined for every such failure or refusal not less than five nor over fifteen dollars, at the discretion of the court martial.

SEC. 40. *Be it enacted*, That it shall be the duty of the field officers to cause the roll of all such companies to be called on the days of company, battalion and regimental musters, and report all delinquents to the battalion or regimental courts martial, and it shall be the duty of the court martial to try, acquit or fine said delinquents in the same way as though said return had been made by a captain of the company.

SEC. 41. *Be it enacted*, That it shall be the duty of the major general of the first division and fourth division, on being notified by the Governor that any portion of the arms of the United States have been or are about to be forwarded to such places, as the arms are to be forwarded by the Governor for the use of their respective divisions, to make suitable provisions for the reception and taking care of said arms, and to forward his account to the Comptroller, properly authenticated, for the amount necessarily expended for said purpose, who shall issue his warrant for the same, to be paid by the Treasurer out of any money in the Treasury not otherwise appropriated.

SEC. 42. *Be it enacted*, That the volunteer companies which may be formed in the first and fourth divisions, according to the provisions of the militia laws of this State, and wish arms, according to the provisions of the same, shall make application to their respective divisions in the same manner and under the same regulations as are prescribed when application for the same is made to the Governor.

SEC. 43. *Be it enacted*, That it shall be the duty of the Comptroller of the Treasury to settle all accounts of the expense of the public arms that have or may from time to time be received by the Governor from the United States to the arsenal of the State or place of deposit for safe keeping, and issue his warrant on the Treasury accordingly.

SEC. 44. *Be it enacted*, That all volunteer companies which shall receive the arms of the State, shall be held in readiness and be subject to the first call for service of the State or of the United States.

SEC. 45. *Be it enacted*, That all regiments and battal-

Equalization
of regiments and
battalions.

ions, at regimental and battalion musters, shall be equalized and laid off agreeably to Scott's Infantry Tactics, exercised and manœuvred in accordance with the same.

Governor com-
mander-in-chief
of militia—his
staff.

SEC. 46. *Be it enacted*, That the Governor, for the time being, shall be commander-in-chief of the militia of this State, who shall appoint one adjutant, one quarter master general of the State, who shall rank each as brigadier generals in the line, and two aids-de-camp, with the rank of colonel of infantry; and the said officers, when called into actual service, either by the authority of the United States or of this State, shall be entitled to the same pay and emoluments as officers of the like grade belonging to the line.

Divisions.

SEC. 47. *Be it enacted*, That each division shall be commanded by one major general, who shall appoint one assistant adjutant general, one assistant quarter master general, and two aids-de-camp, who shall rank as colonels of infantry; and each brigade shall be commanded by one brigadier general, who shall appoint one brigade major, who shall perform the duties of inspector, one brigade quarter master and aid-de-camp, who shall rank as majors. Each regi-

Brigades.

Regiments.

ment shall be commanded by one colonel commandant and one lieutenant colonel, one first and one second major; the colonel shall appoint one adjutant, one regimental quarter master, and one surgeon, who shall rank as captains of infantry, one sergeant major, one quarter master sergeant, one drum and fife major. Each company shall be commanded by one captain, one first lieutenant and one second lieutenant, one ensign, three sergeants and three corporals, who shall be elected by those citizens in the bounds of said company subject to military duty; and the captain shall appoint one drummer and one fifer to each company.

Companies.

Music.

Inspector gen-
eral.

SEC. 48. *Be it enacted*, That from and after the passage of this act it shall and may be lawful for the Governor to appoint an inspector general for the State, with the rank of brigadier general, whose duties shall be the same with those of an inspector in the United States' service, and when called into actual service, shall be entitled to the same pay and emoluments.

Assistant in-
spectors.

SEC. 49. *Be it enacted*, That each major general in this State shall be authorized to appoint an assistant inspector general for his division, with the rank of colonel of infantry, and when called into actual service, shall be entitled to the same pay and emoluments.

Brigade surgeon

SEC. 50. *Be it enacted*, That each brigadier general be authorized to appoint one brigade surgeon, in addition to the staff now authorized by law.

Brigade inspec-
tors.

SEC. 51. *Be it enacted*, That it shall be the duty of the brigade inspectors to make their returns to the assistant inspector general of the division to which they may respectively belong; and the assistant inspectors general shall

make their returns to the inspector general of the State once in each and every year, and oftener if required by the Governor of the State.

SEC. 52. *Be it enacted*, That each officer, non-commissioned officer, musician and private, shall attend at their respective muster grounds, and be in readiness to perform the duties assigned them by 11 o'clock, A. M. on the day appointed for regimental, battalion and company musters; and at the several musters herein directed to be held, the troops shall be exercised at least two hours in each day, and agreeably to such system of discipline as is or may be adopted for the government of the United States' infantry; at which musters the roll shall be called and delinquents noted by order of the commandants of regiments, battalions or companies, as the case may be, both as to absence and arms. Hour for musters.

SEC. 53. *Be it enacted*, That there shall be one judge advocate and one provost martial appointed by the commanding officers of each regiment. Judge advocate and provost martial.

SEC. 54. *Be it enacted*, That before the judge advocate shall proceed to any of the duties of his office he shall take an oath to support the constitutions of the United States and of the State of Tennessee, and also the following oath: "I, A B, do solemnly swear that I will well and truly perform the duties of judge advocate to this regiment in all things according to law and to the best of my ability, so help me God;" and shall give bond and security in the sum of five hundred dollars, payable to the colonel commandant and his successors in office of the regiment, conditioned for the faithful performance of the duties herein required of him; and the said bond shall not be void upon the first recovery. Security and oath of judge advocate.

SEC. 55. *Be it enacted*, That each judge advocate shall hold his office during good behavior, whose duty it shall be to provide a well bound book, to be paid for out of any money in the hands of the judge advocate not otherwise appropriated, in which he shall, from time to time, record the proceedings of the several courts martial, viz: regimental, battalion and company courts martial, for the trial of officers, and all other entries for the regiment; and for his services shall be allowed the sum of one dollar and fifty cents per day for attending regimental, battalion and called courts martial, to be paid out of the fines arising by virtue of this act: *Provided, also*, in case of death, resignation, or removal out of the county, or office, the journal and proceedings shall be kept by the colonel or commanding officer until a judge advocate be appointed in room and stead of him so dead, removed, resigned, refusing to act, or removed out of office. Judge advocate's duty.

SEC. 56. *Be it enacted*, That it shall be lawful for com-

Discharges. mandants of companies to discharge any person from militia duty, upon his producing an affidavit from some justice of the peace within the county that he believes he is forty-five years of age. The residence of every militia man in the State shall be considered to be at the place where he has lodging.

Annual company returns. **SEC. 57.** *Be it enacted,* That the commandants of companies shall make the annual company returns on or before the battalion musters in each and every year, agreeably to the forms hereto annexed, in which shall be expressed the military strength, arms, &c., and deliver the same to the adjutant or commandant of the battalion.

Colonel's duty. **SEC. 58.** *Be it enacted,* That the commandants of regiments shall cause their adjutants to make out from their company returns, on or before the first day of May, in each year, two regimental returns, agreeably to forms hereafter presented, and lay the same before the commandant of the regiment for his examination; and it shall be the duty of said commandants, after signing said returns, to cause their adjutants to forward one of said returns to the brigade major on or before the fifteenth day of May, in each and every year, and the other shall be kept by said commandants for the use of the regiment.

Duty of brigade majors. **SEC. 59.** *Be it enacted,* That it shall be the duty of the brigade majors to make out, from the regimental returns, two brigade returns, on or before the first day of July, in each year, agreeably to the forms hereto annexed, and lay the same before the brigadier general for his examination; and it shall be the duty of the brigadier general, after signing said returns, to forward one of said returns to the assistant adjutant general on or before the first day of August, in each and every year.

Duty of major generals. **SEC. 60.** *Be it enacted,* That it shall be the duty of the major generals to cause their assistant adjutant generals to make out, from the brigade returns, two forms of division returns, agreeably to forms hereto annexed, and lay the same before him on or before the first day of September, in each year, for his examination and signature, one of which the assistant adjutant general shall forward to [the] adjutant general's office on or before the 15th day of September, in each year; and it shall be the duty of the adjutants of regiments, brigade majors and assistant adjutant generals, when any officer shall refuse or neglect to make return, as by this act required, to give notice thereof to his commanding officer of his regiment, brigade or division, as the case may be, whose duty it shall be to order a court of inquiry within fifteen days, if for the trial of a captain or regimental staff, if field, brigade, or division officer or staff, within thirty days; and it shall be the duty of the officer ordering said court to give to the officer or officers failing, as

aforesaid, at least fifteen days notice of the time and place of such court, and a copy of the charge or charges in writing exhibited against him; and said officer so charged, unless good cause shown to the satisfaction of said court, shall be fined in a sum hereafter directed, subject, notwithstanding, to appeal as in other cases.

Sec. 61. *Be it enacted,* That if any non-commissioned ^{Disobedience.} officer or private shall behave himself disobediently or mutinously, when on duty or parade, or before any court directed by this act, the commanding officers of said court may confine him during said parade or during the setting of said court, and he may be fined by a court martial in any sum not under five nor more than ten dollars, to be collected as other fines under this act; and if any by-stander shall attempt to insult or molest any officer or soldier while on duty, or shall be guilty of like conduct before any court, the commanding officer or such court may inflict similar punishment on any person or persons so offending.

Sec. 62. *Be it enacted,* That it shall be the duty of the ^{Captain's duty.} commanding officers of companies to make out a fair roster of his company, placing all those who have not served a tour of duty on the lowest number; and when a detail is made on the company, the captain shall draft the number required from the whole who have not served a tour of duty; and when any person shall arrive at the age of eighteen years it shall be the duty of the captain to give such person at least three days notice of the time and place of holding his next muster, who shall be enrolled in the first or second class, to be determined by lot; and when any person shall move into the bounds of any company, he shall, within ten days, if a citizen of this State, if a citizen of another State, within thirty days, produce a certificate from the captain in the bounds he formerly belonged, showing whether he had served a tour of duty or not; and in case he should fail to produce such certificate, the officer shall place him first for service.

Sec. 63. *Be it enacted,* That it shall be the duty of the ^{Duty of field of-} field officers of each regiment to settle with the judge advocate at least once in every year, which settlement shall be made preceding the courts martial, and signed by themselves, and recorded in the judge advocate's books, and shall be laid before each court martial, and subject to the inspection of the officers composing said court martial; the money collected and funds in hands of the judge advocates shall be drawn by order of a regimental court martial for the following purposes, viz: for the purchase of regimental and battalion standards, drums, fifes, &c. and for furnishing each company with a drum, fife and standard; all of which orders shall be filed and preserved by the judge advocate as vouchers in his annual settlement: *Provided,* that the judge advocate

shall retain in his hands six per cent., as a commission, to be deducted out of all monies so paid out.

Duty of drum and fife majors. SEC. 64. *Be it enacted*, That it shall be the duty of the drum and fife majors to attend the regimental and battalion musters and the drill parades in the regiment, and shall be allowed the sum of one dollar per day, out of any money in the hands of the judge advocate not otherwise appropriated.

Adjutant's duty. SEC. 65. *Be it enacted*, That it shall be the duty of the adjutant of each regiment to attend the several regimental and battalion musters and the drill parades, and there attend to his duty, as heretofore directed, for which service he shall receive the sum of one dollar and fifty cents per day, out of any money in the hands of the judge advocate not otherwise appropriated.

Exercise on muster days. SEC. 66. *Be it enacted*, That it shall be the duty of commandants of regiments and battalions to exercise their regiments and battalions on the muster days; and when they may be present at any company muster, they may superintend the exercise [if] they think proper.

Lieutenants and ensigns. SEC. 67. *Be it enacted*, That it shall be the duty of lieutenants and ensigns to assist in the exercise and discipline of their companies, and report every default and disobedience in the government and exercise thereof. All officers of every grade shall implicitly obey the lawful orders of their superiors; and in case of absence, death or inability of any officer, the next in rank shall take command and discharge all the duty required by this act of his superior, during such vacancy, absence or inability.

Annual court martial. SEC. 68. *Be it enacted*, That the officers of each regiment shall hold a court martial on the fourth Thursday of November annually, and the succeeding days, if necessary, at the place of holding regimental musters, to consist of at least seven members; the senior officer, or officer highest in grade, to be president of said court, and the court shall be sworn to do their duty, by the judge advocate of the regiment. The court thus organized shall have power to inquire into the abilities of those brought before them, and exempt such as may be judged incapable of duty, and to receive all returns of delinquencies made by officers; to hear and determine all neglects or omissions of duty, as well by officers, non-commissioned officers and privates; to hear and determine all appeals that may be taken by officers, non-commissioned officers or privates who may [think] themselves aggrieved by any sentence or decree of any battalion or company court martial; and order and dispose of all fines and forfeitures arising under this act, unless otherwise disbursed by law; and it shall be the duty of all officers to attend their regimental or battalion courts martial; each battalion shall hold a battalion court martial at the place of holding battalion musters. The first battalion shall hold

court martial on the first Thursday in June, and the second battalion on the second Thursday in June, and the third battalion on the Saturday succeeding the first Thursday in June, annually, which court shall consist of at least five members, and in case the major commanding should fail to attend and preside, the senior officer highest in rank present shall preside in said court martial, and at which courts martial the judge advocate of the regiment shall attend; and said court shall be conducted by the same rules, regulations and restrictions as regimental courts martial, reserving to any person who may think himself aggrieved by the sentence of said court, the right of appeal to the next regimental court martial, whose duty it shall be to hear and determine on all appeals brought before them.

SEC. 69. *Be it enacted*, That within twenty days after the rise of any court martial it shall be the duty of the judge advocate to issue executions against all persons on whom a fine has been assessed by such court, or who has been fined and returned by a company court martial. Executions for fines.

SEC. 70. *Be it enacted*, That any person on whom a fine may be assessed by virtue of this act shall have the right of appeal before such execution issues: *Provided*, he will show to the satisfaction of the judge advocate that such appeal should be granted, or the commanding officer of his regiment, whose order shall be a good voucher to the judge advocate for suspending such execution; and it shall be the duty of the commandants of companies to cause to be notified all persons under their command on whom a fine has been assessed within twenty days after the rise of the court at which such fine was assessed. Right of appeal.

SEC. 71. *Be it enacted*, That where any regiment shall consist of sixteen companies, exclusive of volunteer companies, and the commandant thereof fails or refuses to divide the same and make two distinct regiments, it shall be the duty of the brigadier general to cause such regiment to be divided, and when done, to issue his writ to fill vacancies as in other cases. Division of regiments.

SEC. 72. *Be it enacted*, That nothing in this act shall be so construed as to affect the right of volunteer companies whose rights have been secured to them by special act of Assembly. Rights of volunteers.

SEC. 73. *Be it enacted*, That there shall be a judge advocate and provost martial appointed by the Governor, major general or brigadier general, as the case may be, to the several courts hereafter ordered. The judge advocate shall take and keep safely a true statement of all proceedings, whether pleas, evidence or defence, made before a court martial, a fair copy of which, after being signed by the president, shall be delivered to the Governor, major general Officers of courts.

or brigadier general; as the case may be, within twenty days after their adjournment, and prosecute for the State; the provost martial shall attend and execute the orders of the court.

Disobedience of orders. SEC. 74. *Be it enacted*, That the courts martial shall be ordered for the trial of all officers for neglect of duty, disobedience of orders, or disorderly or ungentlemanly behavior; and it is hereby made the duty of all officers to cause to be arrested and brought to trial all subordinate officers under their command who may be guilty of a violation of this act.

General courts martial. SEC. 75. *Be it enacted*, That general courts martial shall be ordered by the Governor when he may think it necessary, where a major general shall preside, if convenient, if not, a brigadier, and be composed of twelve additional members, two of whom, at least, shall be brigadiers, and the others field officers.

Division courts martial. SEC. 76. *Be it enacted*, That division courts martial shall be ordered by the major general; when necessary, where a brigadier general shall preside, and be composed of twelve additional members, two of whom, at least, shall be colonels, and the others field officers.

Brigade courts martial. SEC. 77. *Be it enacted*, That brigade courts martial shall be ordered at the discretion of the brigadier general; where a colonel shall preside, and consist of twelve additional members, two of whom, at least, shall be field officers; and the others not under the grade of captain.

Regimental courts martial. SEC. 78. *Be it enacted*, That regimental courts martial shall be appointed at the discretion of the colonel, where a major or lieutenant colonel shall preside, and be composed of twelve additional members, two of whom shall be captains.

Trials. SEC. 79. *Be it enacted*, That in all courts martial, whether general, division, brigade or regimental, when the full number of officers summoned shall fail to attend, the court shall proceed to the trial: *Provided*, a majority of the officers summoned are present. The president or any member may be challenged on good cause shown to the satisfaction of the court. The decision of any of the courts martial ordered under the authority of this act, shall be approved or disapproved by the officers ordering the same; and in case the sentence is disapproved, he shall return the proceedings to the president of the court, with his objections, within twenty days, who shall again convene the court and re-consider the same; and thereupon, if they adhere to their former opinion, the sentence shall stand confirmed, and the officer ordering said court shall dissolve said court and publish the sentence thereof, subject, however, to an appeal to the officer next in rank; and in case of a division court mar-

tial, to the Governor, for the final affirmance or reversal: *Provided*, that the sentence of no court martial shall be reversed or set aside for the want of any formality.

SEC. 80. *Be it enacted*, That in general courts martial ^{Grades.} none shall be tried below the grade of a general officer, or the adjutant or the quarter master general; in division courts martial, none shall be tried below the grade of a field officer or division staff; in a brigade court martial, none shall be tried below the grade of a field officer or brigade staff or a captain, on good cause shown; in regimental courts martial, all officers below the grade of field officers shall be tried, and regimental staff officers.

SEC. 81. *Be it enacted*, That when either of the courts ^{Proceedings o} herein directed to be organized is convened, the president ^{courts martial.} thereof shall administer to the judge advocate thereof the following oath:

"You do solemnly swear, or affirm, that you will truly and faithfully execute the office of judge advocate to this court, so long as you remain in office, to the best of your ability, and according to the laws of this State and of the United States, and that you will not, when secrecy is required, disclose or discover the sentence of said court, unless to the commanding officer, until he has approved or disapproved thereof; nor will you disclose or discover the sentence or opinion of any particular member of said court, unless required to give evidence in a court of justice."

The judge advocate shall then proceed to qualify the president and members of said court, by administering to them the following oath:

"You, and each of you, do swear, or affirm, that you will well and truly try and determine, according to law and evidence, between the State of Tennessee and the officer to be tried, and you will not discover the sentence of this court martial when secrecy is required, until the same is made known by proper authority, nor will you disclose or discover the opinion of any particular member of this court, unless required to give evidence in a court of justice."

The proceedings of the court shall be correctly taken down by the judge advocate until the trial is finished, when a complete record of the trial and sentence shall be signed by the president, and the court adjourned *sine die*; and upon the disclosure of the sentence of any court martial, any person may, according to the direction of this act, appeal therefrom, by filing a written notice with the officer to whom the appeal is made, at any time before the expiration of twenty days, whose duty it shall be to order up before him the proceedings of such court for final decision, which shall be given within thirty days thereafter.

SEC. 82. *Be it enacted*, That when any person may have ^{Complaints} cause of complaint against any commissioned officer, ^{against commis-} he ^{sioned officers.}

shall lodge with the Governor, major general, brigadier general or commandant of a regiment, as the case may be, the charges, certified in form, and make oath before some justice of the peace that such charges are true to the best of their knowledge and belief, and thereupon an arrest or inquiry shall be awarded; within twenty days thereafter the court martial shall be ordered, and the officer arrested shall have at least fifteen days notice thereof, as well as a copy of the charges exhibited against him. If it should appear to said court, when convened, that, from the absence of witnesses or any other cause, a fair and impartial trial cannot be had, they may adjourn to some further day: *Provided*, the time shall not exceed three months.

Authority of
commandants of
regiments.

SEC. 83. *Be it enacted*, That the commandants of regiments are hereby authorized and directed to call courts martial or courts of inquiry at any time when they may think it necessary, to try persons failing to do their duty, or delinquents of any kind, or persons failing to perform a tour of duty when called on, or for the trial of any non-commissioned officer, musician or private, who may desert from the service; or to excuse any person disabled, or for other causes, from doing militia duty during their disability.

Government re-
quisitions.

SEC. 84. *Be it enacted*, That it shall be the duty of each major general to receive from the adjutant general copies of requisitions of men made by the government on his division, and shall, without delay, make a detail on the brigades in his division, agreeably to the returns made by the assistant adjutant general, and shall issue his orders to the brigadiers accordingly. Whenever the major general may choose, he may attend at any muster or review whatever, and give any orders for the discipline of the troops he may deem expedient.

SEC. 85. *Be it enacted*, That it shall be the duty of the brigadier general to receive from the adjutant general, or major general, copies of requisitions made on his brigade, and shall make a detail on the regiments in his brigade agreeably to the returns made by the adjutants of regiments, and give orders to the commandants of regiments accordingly.

SEC. 86. *Be it enacted*, That commandants of regiments shall receive from the brigadiers copies of requisitions made on their regiments, who shall make the detail on the several companies in his regiment, and give orders to the several commandants of companies accordingly.

Invasion or in-
surrection.

SEC. 87. *Be it enacted*, That it shall be the duty of the major generals, brigadier generals and commandants of regiments, upon receiving notice of an invasion or insurrection, immediately to embody such a force as they may deem competent for the emergency, giving the earliest notice thereof to their next superior officer and to the Governor.

Sec. 88. *Be it enacted*, That where marching orders are given, the captain or other officer may designate some place within the bounds of the regiment or regiments from which the companies were detailed, where he may receive substitutes in the place of those detailed for service: *Provided*, they are able bodied men, well armed, and such as the captain will approve of; and if approved of, he shall receipt to the person furnishing such substitute, which shall be evidence to the officer from whose company such detail is made, that such person is entitled to a credit, which credit shall be entered in such company book, after such troops are discharged from service, for the time the detachment had served and no longer; and if the substitute enlist in the service of the United States, the credit shall be given for the same as if such detachment was detailed for service; and each and every one furnishing such substitute shall be bound to attend all the musters directed by this act; and if such substitute should be called on to perform a tour of duty during substitution, the person for whom he is a substitute shall be bound to serve in his stead; and if any person who may furnish a substitute should be called upon to serve in the room of such substitute such substitute shall refund to said person the full amount which he may have received for performing such substitution.

Sec. 89. *Be it enacted*, That the requisitions of the Governor on the militia of this State shall be deemed evidence of an invasion or insurrection, or an invasion threatened or premeditated; and thereupon, it shall be lawful for the proper officers to enrol such persons as are exempted from militia duty by this act except in such cases.

Sec. 90. *Be it enacted*, That the militia of this State, when called out in the service of the United States, shall not be bound to serve longer than six months from the time of their arrival at the place of rendezvous.

Sec. 91. *Be it enacted*, That all commissioned officers shall rank according to their grades and the dates of their commissions; and when two or more officers of like rank shall have been commissioned on the same day, their rank in the brigade or regiment shall be determined by lot, to be drawn before their commanding officer.

Sec. 92. *Be it enacted*, That in case of actual invasion or an invasion premeditated or threatened against this State, or any part thereof, it shall and may be lawful for the Governor, or any officer by him directed, to order into actual service all or such parts of the militia of this State as he shall deem expedient, and to discharge such troops as soon as he may judge it consistent with the safety of the State: *Provided, always*, the requisition shall be made in the different divisions, brigades, regiments and companies,

in proportion to their numbers who have not performed a tour of duty.

Office of the adjutant general.

SEC. 93. *Be it enacted*, That [the] adjutant general shall keep his office at the seat of government; he shall keep a fair record of all orders and communications he shall receive from the commander-in-chief of this State, and obey all orders from him relative to the duties of his office; he shall receive annual returns from the assistant adjutant general, from which he shall make out a general return of the whole strength of the militia of this State which he shall lay before the commander-in-chief of the State on or before the fifteenth of October in each year, a duplicate of which return he shall, without delay, forward to the Secretary of War of the United States.

Office of the quarter master general.

SEC. 94. *Be it enacted*, That the quarter master general shall keep his office at the seat of government, or at such other place as the Governor may direct; he shall keep a record of all orders and communications he shall, from time to time, receive from the commander-in-chief of the State, and obey all orders relative to the duties of his office; he shall collect and keep safely all arms and military stores belonging to the State, which shall be subject to the orders of the Governor; he shall furnish blank printed forms to division quarter masters and others while in service, which, when made out, shall show the quantity of arms, equipage, &c.

Fines.

SEC. 95. *Be it enacted*, That every non-commissioned officer, musician, or private, who shall neglect or refuse to appear by himself or substitute, at such time and place as shall be appointed by his commanding officer, or appear and not armed as by this act directed, such person, on conviction, shall forfeit and pay a sum not less than one hundred dollars, which sum shall be adjudged against him by a court martial, and shall be collected as heretofore directed, and paid into the public treasury; and if any commissioned officer shall be guilty in like manner, he shall be subject to a penalty not less than one hundred dollars, be reduced to the ranks, and ordered immediately for service; and in case of refusal, shall be liable to the same penalties that other privates are by this act, each of which last mentioned penalties shall be assigned and paid over as heretofore directed by this act: *Provided, always*, that each commissioned, non-commissioned officer, musician and private, shall be notified of such requisition, which must depend upon circumstances, for if the person be notified it shall be available in law.

Oath of commandants.

SEC. 96. *Be it enacted*, That it shall be the duty of every person hereafter elected to the command of the militia of this State, before he enters on the discharge of the duties of his command, to take and subscribe the following oath, which shall be entered on the back of his commission:

"I do solemnly swear that I will support the constitution of the United States and the State of Tennessee, as prescribed by law, to the best of my abilities."

SEC. 97. *Be it enacted*, That if any commissioned officer should absent himself from the duties of his command for more than twelve months, unless employed in the duties of his office, it shall be considered a removal, and measures shall be taken by the proper officer to fill such vacancy; and if any commissioned officer in this State shall labor under any incurable bodily infirmity, mental disability, or shall be guilty of habitual drunkenness, or unofficerlike or ungentlemanlike conduct, or been guilty of any infamous crime, or escaped or concealed himself from justice, or removed himself out of the bounds of his command, the proper officer, on information thereof, shall order a court of inquiry, to consist of five members; if on testimony, or personal observation, they shall report to the officer ordering such court that such person does labor under mental disability, bodily infirmity, or shall be guilty of habitual drunkenness, or unofficerlike or ungentlemanly conduct, or have been guilty of any infamous crime, or escaped or concealed himself from justice, or removed himself out of the bounds of his command, so as to disqualify him from the faithful discharge of his duty; and if the officer ordering said court shall approve the said report, the office shall thereafter be considered vacant, and the proper officer shall proceed to have such vacancy filled as in other cases: *Provided, always*, that the officer so tried shall have the right of appeal to the next superior officer, for approval or disapproval of said report.

Absentees for duty.

SEC. 98. *Be it enacted*, That persons who have served tours in the United States' army as officers, and have since resigned or been arranged out of service, and have returned to the ranks as privates, and all persons who have enlisted and been discharged after a service of six months or more, shall be entitled to a credit of a tour of duty in the militia of this State.

Credit of a tour of duty.

SEC. 99. *Be it enacted*, That the field officers of any regiment or regiments in any one county, where they conceive it necessary to divide said regiment or regiments, and make a separate and distinct regiment: *Provided*, that each regiment of eight companies, exclusive of cavalry or volunteer companies; and whenever a new and distinct regiment is formed from one or more regiments, it shall be the duty of the senior officer present to notify the brigadier general of the regiment or regiments so laid off, and the vacancies of the field officers occurring in either of said regiments, and he shall issue his writ to fill said vacancies as in other cases; and the regiment or regiments so established shall be under the same rules, regulations and restrictions, as other militia.

New regiments.

of this State, and shall constitute a part of the brigade to which said regiment belongs; and it shall be lawful for the commandants of regiments, to divide any regiment or regiments so as to make two or more companies: *Provided*, the same can be done without reducing the number of privates below its lawful number; and the companies when laid off shall be recorded by the judge advocate of the regiment and vacancies filled as in other cases.

Equipments exempt from execution. SEC. 100. *Be it enacted*, That the arms and equipments of any militia man shall be exempt from execution at all times, and their person from arrest, or the service of civil process, while going to, continuing at, or returning from musters or courts martial stipulated by this act.

Volunteer corps. SEC. 101. *Be it enacted*, That it shall and may be lawful for a volunteer company of light infantry to be raised in each regiment where it has not already been done, and the commandants of regiments are hereby authorized to appoint persons *pro tempore* to raise such companies, which shall not consist of less than thirty-six, nor more than sixty-four privates, one captain, one lieutenant, one ensign, three sergeants, three corporals and two musicians.

Arms. SEC. 102. *Be it enacted*, That the commissioned officers shall be armed as other officers of the same grade, and each non-commissioned officer and private with a good musket, smooth bore or rifle, cartouch box or pouch and horn, and shall hold company muster four times in each year, the one on the Saturday preceding the regimental muster, and the other on the Saturday preceding the battalion muster, at such place as a majority of the officers may direct, and shall attend the regimental and battalion musters to which they belong: *Provided*, that the rifle and light infantry companies shall not be compelled to attend the same battalion, and shall be subject, at all times, to the commanding officers as other regiment or battalion.

Volunteers. SEC. 103. *Be it enacted*, That it shall be lawful for a volunteer company of riflemen to be raised in each regiment, when it has not been done, under the same rules and after the same manner, and to be under the same restrictions of light infantry. The commissioned officers to be armed as other officers of the same grade, the non-commissioned officers and privates with good rifles, pouches and horns, and shall muster as directed for light infantry.

Enrollments. SEC. 104. *Be it enacted*, That it shall not be lawful for any officer of the light infantry or rifle companies, to enroll any person who has been enrolled by any militia officer, unless such person shall produce a certificate from the commandant of the company to which he belonged, certifying that his company will not be reduced below its lawful number by such enrollment; and it shall be the duty of such person applying for such certificate, to perform duty in the

company to which he did belong, until [he] shall produce the certificate of the captain that he may wish to join that his company is organized and that he is equipped according to law.

SEC. 105. *Be it enacted*, That the companies of light infantry and riflemen herein directed to be raised, shall be distinguished by the number of the regiment to which they belong; and where details are made on the militia of this State, they shall be ordered into service by certain companies, which shall be determined by lot, drawn by the adjutant general in presence of the Governor.

Light infantry,
how distinguish-
ed.

SEC. 106. *Be it enacted*, That no person shall be permitted to withdraw from a company of light infantry or riflemen in five years, without the consent of the commandant, or unless he shall move out of the regiment to which said company belongs.

Withdrawal
from company.

SEC. 107. *Be it enacted*, That the uniform of the general, field and staff officers of the militia of this State shall be the same as that of officers of the same grade in the United States' army; captains and subaltern officers may or may not wear uniforms at their option; regimental staff also may or may not wear uniforms at their option.

Field uniform.

SEC. 108. *Be it enacted*, That the uniform of light infantry and riflemen shall be as follows: for light infantry, long blue hunting shirts, blue pantaloons, round black hat and red plumes; and for riflemen, long black hunting shirts, black pantaloons, hats as infantry, and white plumes; but in all cases where a company may choose a different uniform, and uniform themselves complete, it shall be lawful for said company to wear its own uniform on all parades.

Light infantry
and riflemen's
uniform.

SEC. 109. *Be it enacted*, That all commissions for militia officers shall issue in the form heretofore in use in this State.

Commissions.

SEC. 110. *Be it enacted*, That all fines and forfeitures imposed on any person by the provisions of this act, shall be collected and paid over in the following manner, to wit: that fines on major generals, staff and field officers shall be paid into the public treasury; on regimental staff, company officers, non-commissioned officers, musicians and privates, into the hands of the judge advocate of the regiment to which they belong.

Fines.

SEC. 111. *Be it enacted*, That all executions for fines, provided for by this act, shall be issued by the judge advocate of the court, and which fines, when collected, if to be paid into the public treasury, the execution shall be directed to the sheriff of the county where the delinquent resides, and the said sheriff shall collect the same with sixty days and pay the same over to the clerk of the circuit court, who shall account for the same as other public monies; and all executions for fines to be appropriated to the use of the regiment

Executions for
fines.

shall be placed by the judge advocate in the hands of a constable within the bounds of the battalion where such delinquent resides, and the said constable shall collect and make return thereof within sixty days after the receipt of such executions; and sheriffs or constables shall be entitled to the same fees that they would be entitled to in civil cases; and for such execution the judge advocate shall be entitled to twelve and a half cents; but no officer shall be entitled to cost except collected of the defendant; and if the constable or sheriff so collecting shall fail or refuse to pay the money, as by this act directed, it shall be the duty of the judge advocate, by motion, in the next county court of the county where such delinquency shall happen, to take a judgment against such delinquent officer for the principal so collected, together with twelve and a half per cent. interest: *Provided*, the said delinquent shall have ten days notice in writing, from the judge advocate, of his intention to make such motion.

SEC. 112. *Be it enacted*, That when any new regiment New regiments. may hereafter be established, or has heretofore been established under the laws of this State, and not numbered by law, it shall be the duty of the Governor to attach the proper numeral number thereto, and the commanding officer to designate the day for regimental muster by a regimental order.

SEC. 113. *Be it enacted*, That all volunteer companies By-laws of vol. unteers. in common uniform are hereby authorized to pass by-laws for the government of their respective companies, and to appoint the number required by law, and to collect fines under their own by-laws, and apply such fines to the use of their own companies: *Provided*, that nothing in this section shall be so construed as to release said companies from performing any of the duties required by the regiment to which they belong, and all fines for a neglect of such duty shall be applied as fines on other militia.

SEC. 114. *Be it enacted*, That there shall be one company Cavalry. of cavalry in each regiment, together with those volunteer companies which are established by law in this State, to be raised by volunteer enrollments, and shall consist of one captain, of one first lieutenant, and one second lieutenant, one cornet, three sergeants, three corporals, one trumpeter, and not less than thirty nor more than sixty privates; and the cavalry of each brigade shall constitute one regiment, and be commanded by a colonel commandant, [and] one lieutenant colonel, and one first and second major, who shall be elected by the commissioned officers of their regiment; and the regimental courts martial of said cavalry shall be conducted under the same rules, regulations and restrictions as in infantry courts martial of like grade, and each company of cavalry shall, on two several days, annu-

different solicitorial districts in this State are hereby authorized and required to enter a *nolle prosequi* in all cases of indictment or presentment now pending in any of the circuit courts in their respective districts against any person or persons for having printed, published, circulated or distributed any written or printed scheme for the drawing of a lottery in this or any other State or county, since the 13th day of February, 1836, upon the defendant or defendants paying or securing the cost of the prosecution: *Provided*, nothing in this act contained shall be construed a repeal of any criminal or penal law of the State: *Provided*, nothing herein contained shall be so construed as to authorize any attorney general of the State to enter a *nolle prosequi* against any person charged for having printed any scheme of any lottery, unless such person so charged shall satisfy the attorney general in whose district such offence may have been committed that he or they, charged according to the second section of this act, had no interest in such lottery other than such fee or fees which they might be entitled to as printer.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed December 27th, 1839.]

Speaker of the Senate.

CHAPTER LVIII.

An Act to provide for the correction of the survey of range 4, west of the basis line in the Ocoee District.

SECTION 1. *Be it enacted by the General Assembly of the* ^{Deficiencies.} *State of Tennessee*, That it shall be the duty of the surveyor general of the Ocoee district forthwith to ascertain, by survey or otherwise, the deficiency in each quarter section and fractional quarter on the eastern side of the 4th range in said district, occasioned by the extension thereon of the western line of the third range, and he shall mark such deficiency on such quarter sections and fractional quarters represented and laid down on the general plan of said district now in the entry taker's office.

SBC. 2. *Be it enacted*, That when the deficiencies shall be ascertained and marked on the general plan, as provided in the first section of this act, it shall be the duty of the entry taker of the Ocoee district to receive locations and make entries for the proper quantity of land that shall remain in the quarter section or fractional quarters, as the case may be, after deducting such deficiencies.

^{Locations and entries.}

jurisdiction over the territory composing the said county of Van Buren, and the citizens thereof, in as full and ample a manner as they now have, until the election of county officers for said county: *Provided, also*, that nothing in this act shall be so construed as to prevent the counties of White and Warren from entering up judgment, or the sheriffs of said counties from selling under such judgment, any lands within said county of Van Buren for taxes, costs or charges for the payment of the taxes for any preceding year, or to prevent the sheriffs of either of said counties from collecting from citizens of said county of Van Buren any taxes due for any preceding year.

Places of voting until next apportionment.

SEC. 4. *Be it enacted*, That the citizens of the county of Van Buren in all elections for Governor, for members of Congress, for electors for President and Vice President, members of the General Assembly, shall vote with the counties from which they have been stricken off until the next apportionment agreeably to the constitution.

Commissioners to select a site for seat of justice.

SEC. 5. *Be it enacted*, That Joseph Cummings, Isham Teter, William Denny, Burrell Cummings, John Paine, Uriah York, Isaac Hillis, William Worthington, Abraham Drake, Willis G. Jones, William Gressum and William L. Paine, of said county of Van Buren, be, and they are hereby appointed commissioners, a majority of whom are hereby authorized to act, who shall on or before the first day of April next, proceed to fix upon two suitable and eligible sites for the seat of justice of said county and for the county town, and the citizens of said county shall at the said election held the first Thursday in April aforesaid, vote for the places which shall be put in nomination by the officer holding said election, or such place or places as any other citizen may put in nomination, and the place receiving the majority of the votes polled shall be the seat of justice for said county; and the said commissioners shall procure by purchase or otherwise at least fifty acres of land, for which they shall cause a deed to be made to themselves and their successors in office, by general warranty, and the said town when laid off and established, shall be known by the name of Spencer, in honor of the brave captain of that name who was killed at Spencer's Hill; and the said commissioners shall report their proceedings to the county court of said county, and it is hereby made the duty of the clerk to record the same: *Provided*, that if more than two places shall be put in nomination, and no one place shall obtain a majority of all the votes polled, it shall be the duty of said commissioners to hold a new election, putting the two places in nomination which shall have received the highest number of votes in the first election, and in said election no other place but the two places so nominated shall be voted for, and the place having the highest number

of votes in the second election shall be fixed as the seat of justice for said county: *Provided further*, that in both said elections the times and places nominated shall be publicly advertised fifteen days before the same is held.

SEC. 6. *Be it enacted*, That it shall be the duty of the county court of said county to appoint five commissioners, who shall be deemed the successors of the commissioners appointed by this act, and it shall be their duty to lay off a town with as many streets and of such width as they may deem necessary, reserving at least three acres for a public square, a lot for building a jail, and lots for male and female academies, and for the erection of churches and meeting houses for public worship.

SEC. 7. *Be it enacted*, That the commissioners of the Sale of lots. town of Spencer shall sell [the lots] in said town on a credit of at least twelve months, first giving due notice thereof in one or more newspapers printed in this State, and shall take bonds, with sufficient security, for the purchase money, payable to themselves and successors in office, and shall make titles in fee simple to the respective purchasers of said lots.

SEC. 8. *Be it enacted*, That the proceeds of the sales of said lots shall be a fund in the hands of said commissioners for defraying the expenses incurred in purchasing the said tract of land and of erecting the public buildings.

SEC. 9. *Be it enacted*, That said commissioners shall su- Courthouse and perintend the building a court house and jail, and shall let jail. out the building of the same upon such terms and of such dimensions as the county court of said county shall order to be built, and shall take bond and good security from the person to whom the same is let, payable to themselves and successors, for double the sum for which said buildings may be undertaken to be built, conditioned for the faithful performance of the contract.

SEC. 10. *Be it enacted*, That said commissioners, before Oath, bond and security of commissioners. they enter upon the duties of their office, shall take an oath before the county court of said county that they will well and truly perform the duties assigned to them to the best of their ability, and shall moreover enter into bond and security, payable to the chairman of the county court and his successors, in the sum of ten thousand dollars, conditioned for the true and faithful performance of their duties enjoined on them by this act, which bond shall be deposited in the clerk's office of said county.

SEC. 11. *Be it enacted*, That said commissioners shall Public monies. keep a fair and regular statement of all monies by them received and expended, which statement when required shall from time to time be laid before the county court of said county, and when all the public buildings are completed, pay over what may remain, if any, to the county trustee

Commencement of operations. SEC. 6. *Be it enacted*, That the company herein incorporated shall not make or effect any insurance whatever until the full amount of capital stock of the company shall have been subscribed for and the payment thereof well secured.

Memphis company. SEC. 7. *Be it enacted*, That a body corporate and politic is hereby created by the name and style of "the Mutual Assurance and Trust Company of Memphis," of a capital of fifty thousand dollars, subject, at the discretion of the stockholders, to be increased to five hundred thousand dollars, with the same powers, restrictions and duration of the aforesaid Merchants Insurance and Trust Company of Nashville.

Opening of books. SEC. 8. *Be it enacted*, That Gray Skipwith, M. B. Winchester, L. C. Trezevant, F. P. Stanton, James Rose, Chas. Stewart, Edwin Hickman, Charles Murray, Chas. Lofland, Jesse D. Carr, Jesse Strange, T. Fowlkes, Solon Borland, Nathaniel Anderson, Lewis Shanks, Jephtha Fowlkes, W. Kimbrough and P. M'Keon, or any three of them, shall be, and are hereby authorized to open books for subscription, at such time and place as may be designated, publication in any newspaper in the town of Memphis for at least ten days; and so soon as fifty thousand dollars shall be subscribed, the stockholders shall convene, after public notice in like manner for at least ten days, and proceed to the election of directors—twenty shares shall render any shareholder eligible as a director.

Single risks. SEC. 9. *Be it enacted*, That "the Mutual Assurance and Trust Company of Memphis" shall have no one risk to exceed one-third the amount of its capital stock paid and secured to be paid; and in all respects, save these specifications, it shall be restricted, privileged and empowered as the aforesaid company of Merchants Insurance and Trust Company of Nashville.

Organization. SEC. 10. *Be it enacted*, That if this company be not organized before 1st January, 1841, this charter shall be null and void.

Charter. SEC. 11. *Be it enacted*, That whenever said company shall, at the expiration of four months, fail or refuse to pay any judgment which may be obtained against them, this charter is then declared to be forfeited.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 9th, 1840.]

Speaker of the Senate.

CHAPTER LXI.

An Act to incorporate the Vanville Rail Road Company.

SECTION 1. *Be it enacted by the General Assembly of the* ^{Commissioners.} *State of Tennessee*, That David N. Bell, Saml. M. Johnson, Granville Torbet of Monroe county, Benjamin F. Locke, James Lillard and Newton Locke of Meigs county, Hugh Price, Noble J. Tunnel, Thomas Shirly, Saml. Finley, Benjamin R. Innman, B. B. Cannon and Saml. Igo of Hamilton county, be, and they are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received to the capital stock of the Vanville Rail Road Company hereby incorporated, which commissioners, together with such other persons as may hereafter become associated with them, their successors and assigns, shall constitute a body corporate, and they are hereby incorporated under ^{Corporate pow- ers.} the name aforesaid; and in that name they shall have perpetual succession, may sue and be sued, plead and be impleaded, and shall possess and enjoy all the rights, privileges and immunities, with power to make such by-laws, ordinances, rules and regulations, not inconsistent with the laws of this State and the United States, as shall be necessary to the well ordering and conducting the affairs of said company; and may by their by-laws declare vacant the place of any director for non-attendance, or neglect of duty; and that the said company shall be capable in law of purchasing, accepting, selling, leasing and conveying estates, real, personal and mixed, to the end and for the purpose of facilitating the intercourse and transportation from the Tennessee river to the southern boundary of the State, to unite with the Western and Atlantic Rail Road of the State of Georgia.

SEC. 2. *Be it enacted*, That the capital stock of said ^{Capital stock.} company shall be one hundred thousand dollars, in shares of fifty dollars each; and that as soon as one thousand shares are subscribed the subscription shall be binding, and the corporate powers of said company, as herein granted, shall commence and have as full operation as if the whole of the capital stock was subscribed; and that if more than two thousand shares shall be subscribed to the capital stock, the commissioners, or a majority of them, shall reduce the subscription to two thousand shares by striking off from the highest subscription in succession in such manner that no subscription shall be reduced while one remains larger; and if there still remains an excess, then lots are to be drawn by said commissioners to determine who are excluded.

SEC. 3. *Be it enacted*, That on the first Monday of ^{Opening books.} March, 1840, the said commissioners shall cause books for subscription of stock to be opened at Vannville, and at such

other places as they may deem advisable, which shall continue open for the space of sixty days, or until one thousand shares of the capital stock shall have been subscribed; and that upon every such subscription there shall be paid, at the time of subscribing, to the commissioners or their agents appointed to receive said subscriptions, the sum of five dollars on every share subscribed; and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company: *Provided*, that thirty days notice be given of such call, in at least two of the public newspapers of this State; and if any subscriber shall fail or neglect to pay any instalment or part of said subscription thus demanded for the space of thirty days next after the period the same shall become due and payable as aforesaid, the stock on which it is demanded, together with the amount paid in, shall be forfeited to the company, and may be sold by the president and directors for the benefit of the company, or they may waive the forfeiture after thirty days default, and sue the stockholder for the instalment due at their discretion.

Subscriptions.

SEC. 4. *Be it enacted*, That if the subscription of one thousand shares, herein made necessary for the incorporation of said company, shall not be obtained by the first day of January, 1841, the same and all subscriptions under it shall be null and void, and the commissioners shall refund to each stockholder the amount he paid in on each share he subscribed, retaining a sum not exceeding one dollar on each share to defray the expenses of opening the books.

Election of directors.

SEC. 5. *Be it enacted*, That as soon as it is ascertained that one thousand shares of the capital stock are subscribed, the said commissioners, or a majority of them, shall give, by advertisement in two public newspapers, at least thirty days previous notice of the time and place that an election will be held for the election of seven directors, to manage the affairs of said company; and that at such time and place each stockholder may attend in person or vote by proxy for the directors aforesaid, giving one vote for each share of which he may be the owner, in that and all succeeding elections; and the directors thus elected shall elect one of their body president of the board, who shall, together with the other directors, continue in office until the first Monday of January ensuing, and until their successors are elected and duly qualified; any three of the said commissioners may act as judges of the first election, and none but a stockholder shall be eligible as a president or director.

Vacancies.

SEC. 6. *Be it enacted*, That to continue the succession of president and directors of said company, seven directors shall be chosen annually by the stockholders on the first Monday in January, at such place as the board may designate, and the directors shall have power to appoint judges o

election; the president of the board shall be elected within three days after the board is organized. If any vacancy should occur by death, resignation or otherwise, the vacancy shall be filled by the board, and the persons thus appointed shall hold their office until the next annual election. All elections required to be made at a particular time and place, if not then and there made, may be made at any other time and place by giving the usual notice of thirty days, and the old officers shall continue to execute their functions until their successors are duly elected and qualified.

SEC. 7. *Be it enacted*, That a general meeting of the stockholders shall be held annually at the time and place appointed for the election of president and directors, at which time and place it shall be the duty of the president and directors in office to exhibit a clear and detailed statement of the affairs of the company; and at such meeting a majority of the whole votes upon the stocks shall be required to remove an officer or to reverse decrees or acts of the directory. General meeting.

SEC. 8. *Be it enacted*, That every officer of said company shall, previous to entering upon the discharge of his duty, take an oath or affirmation faithfully to discharge his duty according to the provisions of this act. Oaths of officers.

SEC. 9. *Be it enacted*, That if any of the two thousand shares shall remain unsubscribed for after the organization of said company, the board of directors shall have power to open the books for the sale of the balance of the stock, upon giving thirty days notice of the time and place; and the subscribers of such stock shall have all the rights and privileges, be subject to the same regulations of the original stockholders. Unsubscribed shares.

SEC. 10. *Be it enacted*, That the president and directors shall have power to appoint a cashier and such officers, engineers, agents or servants whatever as shall be deemed necessary for the transaction of the business of the company, and remove any of them at pleasure, may fix the compensation of such cashier, engineer, officer or servant in the employ of said company, and to determine by their by-laws the manner of adjusting, settling, all accounts against the company, and also the manner, effect and evidence of transfer of stock in said company. Officers, how appointed.

SEC. 11. *Be it enacted*, That the president and directors of said company shall, and they are hereby vested with all the powers and rights necessary for the building, constructing and keeping in repair of a rail road from Vanville, on the Tennessee river, to the southern boundary of the State of Tennessee, to unite with the Western and Atlantic rail road of the State of Georgia; and the said rail road shall have as many tracks as may be deemed necessary by the board of directors, but shall not be more than two hundred feet wide, to which width the company may Repairs.

purchase, and cause the same to be condemned for the use of said road, or any less breadth, at the discretion of the directory; and they may cause to be made or contract with others for making of said road, or any part thereof, and they or their agents, or those with whom they may contract for the making any part of said road, or their agents, may enter upon, use and excavate any land which may be laid out for the site of said road, or the erection of warehouses, engine arbors, reservoirs, booths, stables, offices and mechanic shops, or other works necessary or useful in the construction and repair thereof or its works. They may fix scales and weights, build bridges, lay rails, make embankments and excavations, and may use any earth, ground, rock, timber or other material which may be wanted for the construction and repair of any part of said road, and may construct and acquire all necessary steam engines, cars, wagons and carriages for transportation on said road by horse or steam power, and all necessary apparatus appertaining to the same.

Valuation of
lands, &c.

SEC. 12. *Be it enacted*, That the president and directors of said company, their officers, servants and agents shall have full power and authority to enter upon all lands and tenements through which they may judge it necessary to make said road, and lay out the same according to their pleasure, so that neither the dwelling house, yard or garden be invaded without the consent of the owner or proprietor thereof; and if the company and said proprietors cannot agree as to the value of the land, and the owner will not convey it in fee, either party may apply to the circuit court of the county where the said land lies, by giving five days notice, if the owner of the land resides in the county, and twenty days notice if he resides in any other county in this State, or by advertising in some newspaper, if he resides out of the State or be a body corporate, to appoint commissioners to assess the value and condemn the land for the use of the road; and the court shall appoint five disinterested freeholders of said county, who, after being sworn, shall ascertain what damage the owner will sustain, if any, by the location of said road over his land, always taking into consideration the benefit the road may be to the owner, and the tendency said road will have to enhance the value of the land; and said five freeholders, any three of whom concurring, shall report to said court as soon as practicable the damages, if any, and if none are sustained they shall report the fact, which report shall be recorded, and if any damages are assessed the money shall be paid into court by the said company. The fee simple of land so valued as aforesaid shall vest in said company, and the description of the land and the report of the commissioners shall be made a matter of record, and when registered shall

have the effect of a deed of conveyance in fee simple to the company: *Provided*, that when the land cannot be had by gift or purchase, the operations of the work are not to be hindered or delayed during the pendency of an arbitration, nor shall any injunction or supersedeas be awarded by any judge or court to delay the progress of said work, the true intent of this act being that all injury that may be done to any land, without the consent of the owners thereof, by opening and constructing the rail road through the same, over and above the advantages of the road to the owners of the lands, shall be fully and completely compensated for in damages when ascertained, so that a work of great public utility may not be delayed by law suits.

SEC. 13. *Be it enacted*, That the president and directors, for the purpose of making said road, or repairing the same after it shall have been made, shall be at liberty, by themselves or agents, to enter upon any adjacent lands, and cut, quarry, dig, take and carry away any timber, stone, gravel or earth which may be necessary: *Provided*, they shall not, without the consent of the owners, cut down any fruit trees or trees preserved in any enclosure for shade or ornament, or take away any materials constituting any part of a fence or building, for all which materials under the authority of this act, and for all incident injuries done to ground, wood, enclosures or crops, in carrying them away, the said company shall make to the owner a reasonable compensation; and the said president and directors, their agent or attorney, shall have full power and authority to treat with any owner of land, or executor, administrator, or guardian having the legal custody and management thereof, through which said rail road may be cut or constructed, or from which any timber or material may be taken for the construction of said rail road, and to fix and agree upon a compensation for the same; and when said president and directors, their agent or attorney, cannot agree with said owner so aggrieved, and in all cases where an executor, administrator or guardian is concerned, the amount of injury or damage sustained shall be in writing submitted to, and shall be adjudged and determined by three arbitrators sworn to do justice between the said president and directors and the party so aggrieved, one of whom shall be chosen by said president and the directors, their agent or attorney, one by the other party, and a third by the two so chosen, and in the event of their disagreement of such choice, by any justice of the peace of the county in which said land may lie; all of which submission, choice or appointment and award shall be reduced to writing and immediately returned by said arbitrators to some justice of the peace of the county wherein said arbitration was had, who shall thereupon en-

President and
directors—their
power.

ter up judgment and issue execution as in other cases, subject to an appeal to the circuit court of the county, to be tried by a jury without formal pleadings or issue; *provided however*, that no act *bona fide* of any executor, administrator or guardian, and in conformity with this act, shall in any manner prejudice his, her or their interest, but the same shall be binding on the heirs at law, legatees or orphans with whom he, she or they may have to account.

SEC. 14. *Be it enacted*, That said rail road company shall have power to acquire and own as common stock of said company lands near and connected with said road sufficient only on which to erect warehouses, booths, arbors, stables, reservoirs, &c. for the purpose of constructing said rail road and keeping it in repair, and for the convenience of transportation and places of deposit, which improvements they are hereby authorized to construct. If the company cannot agree with the owners of the land necessary for the above purposes, they may have it condemned in the same manner as the land over which the road is laid out as herebefore provided.

SEC. 15. *Be it enacted*, That the whole stock and property of said company, real, personal and mixed, and the issues, profits and proceeds thereof, shall be holden in law, and is hereby declared to be personal property, and the same shall be governed by the rules and laws governing personal property in all cases, and the said property, and the profits arising therefrom, shall be vested in the respective shareholders, their heirs and executors, administrators and assigns, in the proportion of their respective shares, for ninety-nine years from and after the time fixed for the completion thereof.

SEC. 16. *Be it enacted*, That whenever it shall become necessary in the construction of said road to cross or intersect any public road now or hereafter established by law, it shall be the duty of said company so to construct said road as not to impede the passage or transportation of persons or property along the same; and that when it shall become necessary to pass through the improved lands of any individual, it shall be the duty of said company to provide such individuals with a proper and suitable wagon way across said road from one part of his or her farm to the other, if the same shall be required by said owner at the time the route of said rail road is determined on or at any time within two years thereafter, but the owner of said land may at any time after said rail road shall be opened and completed, construct and make such wagon way across the same at his or her own expense, under the supervision and direction of said company.

SEC. 17. *Be it enacted*, That if said company shall not begin the rail road contemplated by this act, or contract for

the construction of some part thereof on or before the 1st day of January, 1842, and complete the same on or before the 1st day of January, 1846, the interest of said company in said road shall be forfeited and cease, and also all right to take toll.

SEC. 18. *Be it enacted*, That as soon as said road is completed the president and directors may transport all persons, produce and commodities, such person or persons, or owners of such produce or commodities, first paying to said company or their agents the toll that may be demanded for that purpose. The capital stock of said company, and all their property of every description situated within this State, including the road and rails, shall be exempt from taxation for and during the period of twenty years from the completion of said road, and no longer. Transportation.

SEC. 19. *Be it enacted*, That if any person shall wilfully injure, impair or destroy any part of said road constructed under the act, or any of the necessary works, buildings, machines, wagons, cars, booths, reservoirs, bridges or viaducts, such person shall be subject to indictment, and on conviction, shall be fined and imprisoned at the discretion of the court and jury, and shall moreover be liable to an action of damages at the suit of said company in any court having jurisdiction of the same. Protection.

SEC. 20. *Be it enacted*, That said company shall be authorized to charge the following tolls, to wit: for every passenger with not exceeding one hundred pounds of baggage, not exceeding six cents per mile; for every one hundred pounds of goods, wares and merchandise or produce, and commodities of every description, not exceeding one half cent per mile on heavy articles, and ten cents per cubic foot on articles of measurement. Tolls.

SEC. 21. *Be it enacted*, That after said rail road shall be completed, the president and directors shall, on the first Monday in January and July in each and every year, declare and make such dividends of nett profits on the tolls herein granted as may be advisable, to be divided among the proprietors: *Provided*, that the State of Tennessee shall not become a subscriber for any of the stock in this corporation; *Provided, also*, that nothing herein contained shall be so construed so as to prevent the State of Georgia from extending the Western and Atlantic rail road to the Tennessee river at such place or point as she may select; *and provided, also*, that nothing herein contained shall prevent the chartering of other companies to construct rail roads from other points on the Tennessee river to connect with the Western and Atlantic rail road of Georgia. Dividends.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 4th, 1840.]

Speaker of the Senate.

CHAPTER LXII.

An Act for the benefit of the occupant settlers south and west of the Congressional Reservation line.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That all persons who before or at the passage of this act, or who may hereafter become *bona fide* resident occupant settlers upon vacant and unappropriated land, south and west of the congressional reservation line, may have any quantity of said land, including his, her or their improvement, not to consist of more than two hundred acres, surveyed in legal form by the county surveyor or his deputy, and such survey the owner thereof may have represented on the plan of the county by the entry taker thereof.

SEC. 2. *Be it enacted,* That where any person is now or may hereafter become the owner by deed, grant, entry or occupant reservation of a less quantity than two hundred acres of land, the owner or owners thereof may enlarge the same to any quantity not exceeding two hundred acres: *Provided, always,* that they do not interfere with any occupant settler, and that no person shall be entitled to the benefits of this section who may be at the time he may wish to make such enlargement the owner of two hundred acres of land.

SEC. 3. *Be it enacted,* That it shall and may be lawful for the owner or owners of any occupant claim or claims to enter the same, or any part thereof, by virtue of the whole or any part of any genuine land warrant or certificate whenever the same may suit the convenience of such owner.

SEC. 4. *Be it enacted,* That the several county offices shall be and remain open for entries and reservations under the provisions of this act from and after the passage thereof.

SEC. 5. *Be it enacted,* That the fourth, fifth, sixth, seventh, ninth, eleventh, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth sections of an act, passed November 11th, 1837, entitled "an act to provide for the occupant settlers south and west of the congressional reservation line, and for other purposes," be revived and considered a part of this act, and be in full force and operation.

SEC. 6. *Be it enacted,* That the several entry takers, surveyors and deputy surveyors shall be and they are hereby fully authorized and empowered to administer the oath necessary to make proof to the identity of the occupancies within the bounds of their respective counties.

SEC. 7. *Be it enacted,* That if any person or persons be resident citizens upon lands which have been supposed to be entered by warrant, and where the same is in fact va-

cant and unappropriated, on account of the removal of the entry or otherwise, they shall have the same privilege of occupancy which is granted by this act to any person residing upon vacant land, and the same right to enter by warrant as any other person or persons provided for by this act.

Sec. 8. *Be it further enacted*, That it shall and may be ^{Locations.} lawful for any person or persons, in making locations as aforesaid, either occupant or upon warrants or certificates, to include in the same location land which may be partly in two counties, the said locations to be made first in the office of the county in which the beginning corner may be, and be surveyed off by the surveyor of such county, and a plat of such part of such location or entry as may run into the adjoining county, shall, properly certified by the entry taker of the county in which the beginning corner may be, be forthwith laid on the general plan of the county into which such location may in part extend; and all locations of occupant claims or entries made heretofore upon any good and valid land warrant, or certificate of warrant so made, be and the same are hereby declared to be as valid to all intents and purposes as if the whole of such location or entry had been made in whole in one county.

Sec. 9. *Be it further enacted*, That upon the death of any occupant holder, his occupant claim or claims shall be ^{Occupant claims same as real estate.} subject to division amongst his heirs at law in the same manner as real estate: *Provided*, nothing in this act contained shall be so construed as to prevent said decedant from making a different disposition of the same by a last will and testament.

Sec. 10. When any person may wish to build a mill ^{Mill.} on any vacant and unappropriated land, the entry taker for said county shall receive his location for the same number of acres as other occupants are entitled to, and if the said person or persons shall complete thereon a grist mill within the term of twelve months, he shall be entitled to an occupancy as other occupants are allowed by law.

Sec. 11. *Be it enacted*, That it shall not be lawful for any ^{Unlawful en:} person to enter any land warrant or certificate of warrant ^{tries.} upon the occupant of any other person not designated on the general plan, leaving such person a less quantity of land, including such occupant's improvements, than one hundred acres: *Provided always*, that if any person wishing to enter any warrant or certificate of warrant on any such occupancy belonging to any other person, it shall be the duty of the owner of such warrant or certificate to notify the owner of such occupant or occupants, in writing, that they wish to enter such occupancy or occupancies as aforesaid, and to proceed to have such occupancy or occupancies entered and designated on the general plan of the county in which the

same may be situated: *Provided, also*, that if the owner or owners of such occupancy or occupancies shall fail to have the same entered and designated as aforesaid, and enlarged according to the provisions of this act, within thirty days from and after the service of such notice as aforesaid, it shall and may be lawful for the owner of such warrant or certificate to proceed to enter such warrant or certificate of warrant on any vacant and unappropriated land adjoining such occupancy or occupancies.

Locations already made.

SEC. 12. *Be it further enacted*, That the further time of two years be, and the same is hereby allowed to any person or persons who have heretofore made locations, to have the same surveyed and grants obtained thereon, or if surveyed to have grants obtained.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 11th, 1840.]

Speaker of the Senate.

CHAPTER LXIII.

An Act to increase the amount of the penalty of the bonds of sheriffs and constables, and for other purposes.

Sheriff's bonds.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That all persons hereafter elected to the office of sheriff, before entering upon the duties of the office, shall give bond with two or more good and sufficient securities, to be approved of by the court, payable to the Governor for the time being, and his successors in office, in the same way and manner and under the same conditions as are now required by law, in the penal sum of not less than twelve thousand dollars nor more than fifty thousand dollars, at the discretion of the court taking said bond.

Constable's bonds.

SEC. 2. *Be it enacted*, That all bonds hereafter to be given and executed by persons elected to the office of constable shall be given and executed as is by law now required, in the penal sum of not less than four thousand dollars nor more than eight thousand dollars, at the discretion of the court taking said bond.

Failure to give bonds.

SEC. 3. *Be it enacted*, That if any sheriff or constable shall fail or refuse to give the bond as is hereinbefore directed, at the court in which, by law, said bond is required to be given, it shall be the duty of the court to fill such office by *pro tem.* appointment, and the person so appointed shall give bond and security, as is herein directed, and hold the office.

and continue to act until said office shall be filled by the people.

SEC. 4. *Be it enacted*, That it shall be the duty of the several county courts of this State, at their monthly or quarterly session, should the securities of any of their sheriffs or constables die, become insolvent, or remove, or become otherwise unable to pay the penalty in the bond, to require of such sheriff or constable to give an additional bond, with other and better security; and if upon ten days notice being given, such sheriff or constable shall fail or refuse to give such additional bond, with sufficient security, such sheriff or constable shall cease to act as such sheriff or constable, and it shall be the duty of the court to fill such office by *pro tem.* appointment, and the person so appointed shall give bond and security as by this act directed, and continue to act until the office shall be filled by the people.

SEC. 5. All bonds hereafter to be given by sheriffs and clerks of the county and circuit courts shall be recorded in the minute book of the courts taking such bond, and a certified copy thereof, under the seal of such clerk, shall be forthwith transmitted to the Comptroller of the State.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 18th, 1840.]

Speaker of the Senate.

CHAPTER LXIV.

An Act to amend the fifth section of an act entitled an act setting forth the property, real and personal, and the privileges and occupations liable to taxation in this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That each retail merchant, grocer, jeweller or druggist, or firm of co-partners in said business, may at his or her or their election make an affidavit before the clerk of the county court of the county wherein he or they may wish to sell such goods, wares, merchandise, groceries, jewelry or drugs, that the amount of his or their stock on hand estimated at the invoice cost when purchased does not exceed one thousand dollars, on which affidavit he or they shall pay a tax of seven dollars to said clerk, who shall thereupon issue a license for one year; and when the amount estimated as aforesaid is above one thousand and not exceeding one thousand five hundred dollars, the said clerk shall on affidavit as aforesaid, issue to such applicant a license for one year on the payment of ten dollars; and where the

amount estimated as aforesaid is above one thousand five hundred, and does not exceed two thousand dollars, the said clerk upon affidavit as aforesaid shall issue a license for one year upon the payment of twelve dollars and fifty cents; and where the amount estimated as aforesaid is above two thousand dollars and does not exceed two thousand five hundred dollars, the said clerk on affidavit as aforesaid, shall issue a license for one year on the payment of fifteen dollars.

SEC. 2. *Be it enacted,* That all persons who shall come within the purview or meaning of this act shall be entitled to all the benefits, and be subject to all the penalties contained in the sixth, seventh, eighth and ninth sections of an act which this act is intended to amend.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 20th, 1840.]

Speaker of the Senate.

CHAPTER LXV.

An Act to extend the corporate limits of the town of Hartsville, in Sumner county.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the corporate limits of the town of Hartsville, in Sumner county, of this State, be so extended as to include all the lots laid off adjoining said town, and that the jurisdiction of the aforesaid authorities of said town be and the same is hereby extended over all lots and persons living thereon in as full and ample a manner as they have over the original limits of said town by the laws heretofore passed incorporating the same.

SEC. 2. *Be it enacted,* That all laws heretofore passed for the corporation and government of said town be revived, and are hereby declared to be in full force, and the sheriff of Sumner county shall proceed to give notice and hold an election for mayor and aldermen as provided for in said laws, and forever thereafter an election shall be held annually for that purpose, and the mayor and aldermen elected at any such election shall hold their office for twelve months, and until their successors shall be elected and qualified, and no failure to elect the mayor and aldermen, as herein provided for, shall operate as a forfeiture of the charter of said town.

SEC. 3. *Be it enacted,* That the corporate limits of the town of Woodbury, in Cannon county, is hereby extended

in the following manner, to wit: beginning on the north-west corner of lot No. 1, in said town, and running thence north ten poles to a stake, thence west ten poles to a stake, thence south ten poles to a stake, and thence east ten poles to the beginning; and said tract included in the above described lines shall be known as lot No. 69, in said town.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 20th, 1840.]

Speaker of the Senate.

CHAPTER LXVI.

An Act to establish a Chancery court at Lewisburg, in Marshall county, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the county of Marshall shall constitute and form the sixteenth chancery district of the Middle division of chancery courts, and the courts for said district shall be held at the court house in the town of Lewisburg on the third Mondays of February and August in each year, and said court shall be organized as is provided for other district chancery courts by the act of one thousand eight hundred and thirty-five, chapter forty-one. Sixteenth chancery district.

SEC. 2. *Be it enacted,* That the citizens of Coffee county may file their bills in chancery or be sued in the chancery courts at Shelbyville, Winchester or M'Minnville, and the citizens of DeKalb county may file their bills in chancery or be sued in the chancery courts at Carthage or M'Minnville.

SEC. 3. *Be it enacted,* That there shall be a district chancery court established in the fourth division of district chancery courts at the town of Woodbury, in the county of Cannon, which shall be held at the court house in said town on the first Mondays of February and August, and the same shall be held by the chancellor of said division, and be organized as other chancery courts in this State provided for by law, and the county of Cannon shall compose said district, and the citizens of DeKalb and Coffee counties shall have leave to file their bills in said court at their discretion. Chancery court for Cannon.

SEC. 4. *Be it enacted,* That there shall be a chancery court held at Clarksville, and the district for the same shall be composed of the county of Montgomery, and the court for said district shall be held at Clarksville on the third Mondays of March and September: *Provided,* that the citizens Chancery court for Montgomery

of the county of Robertson shall have the privilege of filing their bills either at Gallatin or Clarksville, and the citizens of the county of Stewart shall have the privilege of filing their bills either at Charlotte or Clarksville.

Transfer of cases. SEC. 5. *Be it enacted*, That the cases now pending in the chancery court at Charlotte, which originated in the counties of Montgomery, Robertson or Stewart, may, at the request of the complainant and with the consent of the defendant, be transferred to the court at Clarksville.

Duty of clerk and master. SEC. 6. *Be it enacted*, That upon any transfer being made in pursuance of the fifth section of this act, it shall be the duty of the clerk and master of the chancery court at Charlotte, within forty days after the order of transfer shall have been made, to make a complete and perfect transcript of all the rules in relation to the same either upon the record books of said court or upon the rule docket, and transmit the same, together with the original papers, to the clerk and master at Clarksville, and the clerk and master therefor shall receive the usual fees, to be taxed in the bill of costs.

Court where and by whom held. SEC. 7. *Be it enacted*, That the court hereby established shall be attached to the Western division, and the court for the same shall be held by the chancellor for the Western division.

Shall be holden in the town of Dresden, Weakley county, on the second Mondays in February, June and October in each and every year. SEC. 8. *Be it enacted*, That hereafter the circuit courts

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,,

Passed January 24th, 1840.] *Speaker of the Senate.*

CHAPTER LXVII.

An Act to protect the owners of mills in the enjoyment of their rights.

Interference with water passages. SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall not be lawful for any person or persons to obstruct or interfere with the passage of water in any slough of any navigable water course in this State that the exclusive right of navigation with steamboats has been secured to any particular person or persons, upon which a mill has been erected, whereby the profitable enjoyment of said mill may be affected.

Stopping of sloughs. SEC. 2. *Be it enacted*, That it may be lawful for any person or persons to stop any of said sloughs for a time not to exceed at any time one half a day for the immediate

passage of any boat or boats: *Provided*, said person or persons shall immediately open said slough or sloughs, and place them in such a condition as the free passage of water shall in no wise be obstructed by the stopping of the slough or water as aforesaid: and should any person violate the provisions or meaning of this act, he, she or they shall be guilty of a misdemeanor, and shall be subject to presentment or indictment, and on conviction thereof, shall be fined for every such offence in a sum not less than fifty dollars: *Provided*, nothing in this act shall authorize any person to obstruct the navigation of the main channel or navigable part of any river, by placing obstructions therein, the exclusive navigation of which rivers by steamboats have been by law secured to any person or persons: *Provided further*, that it shall and may be lawful for any person employed or undertaking to improve the navigation of Duck river to erect a dam or hedge across any slough of said river below Columbia, on which a mill has or may be erected, by leaving a free pass for water through said dam or hedge at least seven feet wide, which however may be stopped and opened according to the second section of this act; *and provided also*, that nothing in this act shall be so construed as to prohibit any person, undertaking or employed as aforesaid to improve the navigation of said river, from stopping up any slough of said river before any mill shall have been built on the same.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 18th, 1840.]

Speaker of the Senate.

CHAPTER LXVIII.

An Act to incorporate the citizens of the town of Hampshire, in Maury county.

SECTION 1. *Be it enacted by the General Assembly of the* Limits. *State of Tennessee*, That the town of Hampshire, in the county of Maury, and the inhabitants within the limits, viz: beginning on the north-west corner of Leftwick's spring, thence east along the line between James Love and the north range of town lots, thence south running with F. S. Cook's line, taking in J. J. Gibson, John W. Kirkpatrick, to the line William H. Parkes, thence west to the corner between said Parkes and Samuel B. Lusk, thence north to the beginning.

SEC. 2. *Be it further enacted*, That the charter of incorporation granted to the town of Farmington, in the county

of Bedford, passed 14th December, 1835, be, and the same is hereby adopted as the charter of incorporation for the town of Hampshire, and all the elections directed in said act to be held by the sheriff of Bedford county, and all duties by him required to be performed, shall be performed by the sheriff of Maury county in reference to the town of Hampshire, and the first election shall be held on the first Monday in March next, and on the first Monday in January in each and every year thereafter, and if from any cause the election should not be held on the day required by law, it may be held on any other day by giving ten days notice.

SEC. 3. *Be it enacted,* That the qualified voters residing in any incorporated town, being the county seat of any county in this State, shall be authorized to elect an additional justice of the peace, whose residence shall be within the incorporated limits of said town.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 23d, 1840.]

Speaker of the Senate.

CHAPTER LXIX.

An Act to establish a branch of the Bank of Tennessee at Sparta, in the county of White.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee;* That a branch of the Bank of Tennessee be, and the same is hereby established in the town of Sparta, in the county of White, for the counties of Van Buren, Warren, DeKalb, Jackson, Overton, Fentress, Bledsoe and White, under the same rules, regulations and restrictions as other branches of the Bank of Tennessee: *Provided,* that the capital of said branch shall be taken from the branches located now in Middle Tennessee, and a proportionable part from the mother bank.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 21st, 1840.]

Speaker of the Senate.

CHAPTER LXX.

An Act to locate additional branches of the Planters Bank, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the president and directors of the Planters Bank of Tennessee are hereby authorized to establish two additional branches at such places as the directors may select, and also authorized to withdraw any branches not established by the charter; and the said branches shall be governed by the same regulations and restrictions as the branch of said Bank located at Pulaski, in the county of Giles. Additional branches.

SEC. 2. *Be it enacted*, That if any branch so established or located shall at any time fail or refuse to pay in gold or silver coin any bill, note, or other obligation issued from and payable at said branch, or any bill, note, or other obligation that may have been issued by the mother Bank, or any branch thereof, payable at such branch established or located under this act, the power to establish or locate any additional branch or branches, or to remove and re-locate the present branches, shall be, and the same is hereby withdrawn, and the charter of such branch or branches so failing or refusing to pay on demand shall be declared forfeited, and the Governor shall issue his proclamation declaring the same; and the principal Bank, in such event, is hereby required to call in and withdraw such branch or branches, and the said Bank shall be forever after incapable of locating or establishing any other branch under the provisions of this act. Refusal to pay specie.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed January 23d, 1840.]

CHAPTER LXXI.

An Act for the relief of such persons as made improvements upon school sections in the Ocoee district.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That all and every person or persons, his or her or their rightful assignee or assignees or legal representative, who, at the time of the passage of the act entitled "an act to dispose of the lands in the Ocoee district," passed at Nashville, November 29, 1837, was or were the School sections of land.

owner or owners of any improvement or improvements upon any section of land laid off and designated by the surveyor general of said district upon his general plan as a school section, shall be, and he, she or they are hereby entitled to the value of such improvement or improvements, to be ascertained and assessed by Ezekiel Spriggs, of Bradley county, Benjamin B. Cannon, of Hamilton county, and Avery Hannah, of Meigs county, who are hereby appointed commissioners for that purpose, whose duty it shall be to go on the premises to issue subpoenas, and have witnesses summoned before them, if necessary, to enable them to make such assessment; and the commissioners, before entering upon the discharge of the duties assigned them by this act, shall take an oath before some justice of the peace faithfully and honestly to perform their duty as commissioners as aforesaid.

Commissioners.

Duty of commissioners.

SEC. 2. *Be it enacted*, That the commissioners appointed in the first section of this act be and they are hereby authorized and required to issue a certificate or certificates, as the case may be, to such person or persons owning said improvements on said school sections for the value thereof.

Certificates.

SEC. 3. *Be it enacted*, That certificates issued as provided in the second section of this act shall be, by the entry taker of the Ocoee district, received at their nominal value for the entry of any land thereafter in his office, which certificates shall be to the entry taker good vouchers on his settlement with the Superintendent, and the townships in which school sections are situated which shall have the improvements therein valued, as provided in this act, shall not be entitled to the amount of such valuation in the distribution of the common school monies in the several counties of this State; and it shall be the duty of the Superintendent of Public Instruction, in making the apportionment of the common school monies as provided by law, to withhold from such townships as shall have had school sections valued therein the amount of such valuation from each township respectively, and the monies so retained shall thereafter be placed in and regarded as a part of the common school fund of this State. And it shall be the duty of the commissioners appointed in this act to certify to the Superintendent of Public Instruction the amounts of the several valuations that shall be made as provided in this act, and the townships and ranges east or west of the basis line in which such valuations shall be made.

Duty of Superintendent.

Pay of commissioners.

SEC. 4. *Be it enacted*, That said commissioners shall be allowed for their services the sum of two dollars each per day while necessarily engaged in such assessments, to be paid by the owner or owners of such improvement or improvements respectively.

SEC. 5. *Be it enacted*, That if any or either of said

commissioners shall fail or refuse to act, it shall be the duty of the Governor of the State to appoint some other suitable person or persons, as the case may be, to supply such vacancy or vacancies.

JONAS E. THOMAS,
Speaker of the House of Representatives.
 L. H. COE,

Passed January 23d, 1840.] *Speaker of the Senate.*

CHAPTER LXXII.

An Act to incorporate the Union College, in Robertson county.

WHEREAS, the citizens of the town of Springfield, and of the county of Robertson, animated by a laudable zeal for the promotion of the cause of education and the diffusion of its blessings, have associated themselves as well as their private funds for the purpose of establishing a College at or near said town of Springfield, to be conducted and governed in such way and manner as said citizens, through the trustees of said College, shall direct, by such constitution as said citizens shall adopt or shall have adopted; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That a College be established at or near the town of Springfield, in the county of Robertson, on such site as the trustees hereafter to be named shall select, to be known and designated by the name of Union College.

SEC. 2. *Be it enacted,* That Richard W. Mantalo, Henry Hart, James Smith, Richard Cheatham, William Seal, H. S. Kimble, John W. Ogden, Edward S. Cheatham, Robert Green, Thomas Farmer, David R. Harris, Daniel P. Braden and Henry Frey, be, and they are hereby constituted a body politic and incorporate, to be known as the trustees of Union College, and by that name shall have succession for fifty years, and a common seal.

SEC. 3. *Be it enacted,* That the said trustees and their successors, by the name aforesaid, shall and may be capable in law to purchase, have, receive and enjoy to them and their successors lands, tenements and hereditaments of any kind or value in fee or for life or years, and personal property of every kind whatsoever, and also all sums of money of any amount whatsoever which may be granted, donated or bequeathed to them for the purpose of building, erecting, endowing and supporting said College.

SEC. 4. *Be it enacted,* That said College be established, conducted, governed and controlled by said trustees and their successors in such way and manner as shall be pre-

scribed by the constitution that shall have been or may be adopted by the citizens aforesaid.

Constitution. SEC. 5. *Be it enacted*, That the citizens aforesaid, having associated themselves and their private funds as aforesaid, shall have the power of adopting such constitution for the establishment, conducting, governing and controlling said College as they may deem necessary and proper; *Provided*, the same is not repugnant to the constitution and laws of the State of Tennessee or of the United States; *provided further*, that said citizens shall have the power to amend such constitution from time to time as they shall deem proper.

Capability of trustees. SEC. 6. *Be it enacted*, That said trustees shall be capable of suing and being sued, pleading and being impleaded, in any court of law or equity in this State.

Meetings. SEC. 7. *Be it enacted*, That said trustees and their successors, seven constituting a quorum to do business, shall hold their meetings in the town of Springfield at such time and place as they shall or the president of their board designate.

This act. SEC. 8. *Be it enacted*, That this act shall be deemed a public act, and be judicially taken notice of without being specially pleaded.

Appointment of trustees. SEC. 9. *Be it enacted*, That the trustees of said College be appointed annually, and any vacancies be supplied as shall be prescribed by the constitution aforesaid.

Professorship of agriculture. SEC. 10. *Be it enacted*, That a professorship on the science of agriculture may be founded by any person or persons or any agricultural society in said College.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 25th, 1840.]

Speaker of the Senate.

CHAPTER LXXIII.

An Act to encourage the killing of wolves in the county of Morgan.

Additional tax. SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall and may be lawful for the county court of the county of Morgan at their first term in each and every year, a majority of the acting justices being present, to levy an additional tax for the purposes hereinafter prescribed.

Compensation for kill'g wolves SEC. 2. *Be it enacted*, That it shall be lawful for the county court of the county of Morgan at their first term in each year, a majority of the acting justices being present

and voting therefor, to make such additional compensation as they may think proper, not to exceed ten dollars, to any person or persons who may be the killer of any wild wolf or wolves over the age of four months; *Provided*, such person or persons shall make affidavit that such wolf or wolves were killed within the county of Morgan, to be paid out of any money in the treasury of said county not otherwise appropriated.

SEC. 3. *Be it enacted*, That this act shall take effect and be in force from and after the passage thereof.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 25th, 1840.]

Speaker of the Senate.

CHAPTER LXXIV.

An Act giving further time for obtaining grants in the Hiwassee district.

Be it enacted by the General Assembly of the State of Tennessee, That the further time of two years from the end of the present session of the General Assembly be allowed the purchasers and assignees of purchasers, enterers and assignees of enterers of land in the Hiwassee district to obtain their grants for the same. Time allowed.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 25th, 1840.]

Speaker of the Senate.

CHAPTER LXXV.

An Act to provide for the reduction of the State debt.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the fifteen hundred State bonds ^{Cancel of State bonds.} which have been issued and placed in the Bank of Tennessee for the purpose of being negotiated to raise one million five hundred thousand dollars as capital for said Bank, be forthwith deposited in the office of the Secretary of State by the president of said Bank, and said bonds, when so deposited, shall be cancelled and destroyed by the Governor.

SEC. 2. *Be it enacted*, That so much of the act passed 19th January, 1838, entitled "an act to establish a State

Repeal of law
authorizing the
issuance of State
bonds.

Bank to raise a fund for internal improvement, and to aid in the establishment of a system of education," as authorizes the Governor to issue the bonds of the State for the purpose of raising capital for said Bank of Tennessee be and the same is hereby repealed.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 28th, 1840.]

CHAPTER LXXVI.

An Act to attach a portion of Stewart county to the county of Humphreys.

Bounds.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That so much of the county of Stewart as lies within the following described bounds, (to wit:) beginning at a point where the line between Stewart and Humphreys counties crosses the dividing ridge between White Oak and Turkey creek, at the head of Varner's branch, running thence down said branch to White Oak creek, thence up White Oak creek with its meanders to the mouth of Lewis' branch, thence up said branch with its meanders to the forks of the same at or near Nimrod Crosswell's, thence up the south fork of the same to the Tennessee ridge, thence along the top of said ridge to where the road leading up the Long branch of White Oak crosses the same, thence a due east course to the line of Dickson county, thence southwardly with said line to the north boundary of Humphreys county, thence with the line dividing Stewart and Humphreys counties to the beginning, be, and the same is hereby attached to the county of Humphreys, and that the citizens included in that portion of Stewart attached to the county of Humphreys shall have and enjoy all the rights and privileges of other citizens of Humphreys county.

Civil officers.

SEC. 2. *Be it further enacted,* That all civil officers residing in that portion of Stewart county thus attached to the county of Humphreys shall continue in and hold their offices until the next regular election for county officers.

Commissioners.

SEC. 3. *Be it further enacted,* That Alexander Brown, William O. Gwinn, Elisha Crosswell, William Rye and Alexander Irwin be, and they are hereby appointed commissioners, a majority of whom may act, to superintend the running and marking said line; and they shall have authority to appoint a competent surveyor, whose duty it shall be to run said line and make out two correct plats of said territory, one of which shall be deposited with the county

court clerk of Stewart county, and the other with the county court clerk of Humphreys county; said commissioners and surveyors shall be entitled to the same compensation for their services that other persons are entitled to for performing similar services, to be paid out of any money in the hands of the trustee of Humphreys county not otherwise appropriated.

Sec. 4. *Be it further enacted*, That William O. Gwinn, Esq. shall open and hold an election at the house of Alexander Brown, Esq. on the 15th day of February, 1840, after first giving ten days notice by advertisement at two or more public places in the territory above named, and if there be a majority in favor of being attached as provided in the foregoing provisions of this act, then this act shall take effect, and not otherwise.

Election.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed January 20th, 1840.]

CHAPTER LXXVII.

An Act to incorporate the Memphis Female Academy, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That Thomas Rose, Charles Stewart, Samuel Hayter, M. B. Sappington, Enoch Banks, Jephtha Fowlkes and Stith Notion be, and they are hereby constituted a body politic and corporate by the name of the trustees of Memphis Female Academy, and by that name shall have succession for ninety-nine years, and have and use a common seal; and the trustees and their successors, by the name aforesaid, shall be capable in law to purchase, receive and hold to themselves and their successors, for the said term of ninety-nine years, any lands, tenements, goods and chattels which shall be given, granted or devised to them, or purchased by them, to the use of said Academy, and to use or dispose of the same in such manner as to them shall seem most to the advantage of said Academy; and said trustees and their successors, by the name aforesaid, may sue and be sued, plead and be impleaded in any court of law or equity of this State or elsewhere.

Body politic and corporate.

Sec. 2. *Be it enacted*, That the said trustees and their successors shall have power to hold a meeting whenever convened by any two of said trustees, at any place said trustees may appoint, and not less than a majority shall constitute a board, which board, or a majority of them, shall

Power of trustees.

have power to appoint a president, secretary and treasurer of said board, and to transact all business of every description relating to the interest, government and management of said Academy in such manner as to them shall seem expedient and necessary; that upon the death, resignation or removal of any of said trustees or their successors, the vacancy shall be filled in such manner as is now pointed out by law for filling such vacancies in other Academies in this State.

SEC. 3. *Be it further enacted,* That M. D. Thomason, Henry Wade, H. L. Crutcher, Henry Pointer and J. W. Cheers, be, and they are hereby constituted a body corporate and politic, by the name of the trustees of the Spring Hill Female Academy, and shall have all the powers and privileges conferred on the trustees of the Union Seminary in Maury county, by an act passed on the 15th of January, 1838; *Provided,* that nothing in this act, or in the charter of incorporation granted to the Union Seminary of Maury county, hereby adopted as the charter of incorporation for the Spring Hill Female Academy, shall be so construed as to prevent any subsequent legislature from altering or amending the charter hereby granted to the Spring Hill Female Academy.

SEC. 4. *Be it enacted,* That the Female Academy in Covington, Tipton county, be, and the same is hereby incorporated, with all the rights and privileges of the Memphis Female Academy, and Robert W. Sandford, Joseph T. Collier, Daniel Morrison, Hugh T. Rose, Robert Simonton, George T. Taylor, Daniel B. Whitley, Fred. B. Smith and Charles G. Fisher are hereby appointed trustees for said Academy.

SEC. 5. *Be it enacted,* That Alex. Mathis, W. D. Rankin and William Robinson are appointed additional trustees to Anderson Academy, in Cocke county, and shall have the same powers that are conferred upon the original trustees.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER LXXVIII.

An Act to provide for viewing and laying off an alteration, of the road leading from Newport, in the county of Cocke, to Sevierville, in the county of Sevier.

SECTION 1. *Be it enacted by the General Assembly of the Commissioners. State of Tennessee,* That Alexander E. Smith and William

Jack, of the county of Cocke, and Barnett Thornton, Joseph Hill and James Webb, of the county of Jefferson, James P. H. Porter, Sen. and Micajah C. Rogers, of the county of Sevier, be, and they are hereby appointed commissioners to view, mark and lay off an alteration in the location of part of the road leading from Newport, in Cocke county, to Sevierville, in Sevier county, commencing at the forks of the road at William Wilson's, in Cocke county, going through a part of Jefferson county, to George Fox's, in Sevier county.

SEC. 2. *Be it further enacted*, That it shall be the duty of said commissioners, a majority of them being present, to view, mark and lay off any alteration or alterations, by changing the location of said road between the points above mentioned, as they or a majority of them may think advisable; and the alteration or alterations, change or changes (if any) by them made shall be by them plainly marked and designated all along the line or lines of such alteration or alterations, change or changes, from the point or points of commencement to the point or points of the termination or terminations. Their duty.

SEC. 3. *Be it further enacted*, That when said commissioners, or a majority of them, have marked and laid off the alteration or alterations, change or changes, as contemplated by this act, it shall be the duty of said commissioners, or a majority of them, to make report of such alteration or alterations, change or changes of said road as have been by them so marked and laid off in each county to the county courts respectively; whereupon, it shall be the duty of each of said courts to whom such report shall be made to appoint an overseer or overseers, and to assign hands to open and keep in repair so much of said road and of such alteration or alterations or changes as may be located in its county; *Provided*, that nothing in this act shall be so construed as to prevent any person or persons whose lands or premises through which said road as altered and located by the commissioners appointed by this act from recovering any damages they may sustain by the location of said road, as is provided for by law in other cases. Duty of courts.

SEC. 4. *Be it further enacted*, That it shall be the duty of the overseer or overseers to be appointed by virtue of this act to open said road so marked and laid off by the commissioners aforesaid, and to keep the same in good repair as a road of the first class is by law required to be opened and kept; and if the said overseer or overseers, or either of them, shall fail to open and keep said road in repair, as required by this act, he or they so failing shall be liable the same as other overseers for a like failure or neglect, and shall be punished accordingly. Duty of overseers.

SEC. 3. *Be it further enacted*, That when said road is

Change of loca- marked and laid off as directed by this act, its location shall
tion. not be changed except by the order of two-thirds of the
justices of the county court of the county wherein such
change may be proposed.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER LXXIX.

An Act prescribing the mode of choosing electors to vote for President and Vice
President of the United States.

Choice of elec- **SECTION 1.** *Be it enacted by the General Assembly of the*
tors. *State of Tennessee,* That the qualified voters for members
of the General Assembly of the State shall meet at their
respective court houses and other places appointed by law
for holding elections in each and every county, on the first
Tuesday after the first Monday in November, 1840, and
vote for fifteen electors of President and Vice President
of the United States, as by the constitution and laws of
the same they are entitled to vote; and that the sheriff or
coroner, or any other person or persons authorized by law
to hold elections of each and every county in this State,
shall, and they are hereby required to appoint three judges
for every place of voting in their respective counties, and a
like number of clerks, all of whom shall be sworn to con-
duct said elections as herein required, and at which elec-
tion the same rules and regulations shall be observed by the
several sheriffs, coroners, clerks, judges and others, and vo-
ters, as are now provided by law in electing members of the
General Assembly.

Electoral dis- **SEC. 2.** *Be it enacted,* That each congressional district
tricts. in this State shall make an electoral district, and that one
elector shall reside in each of said districts.

Number of elec- **SEC. 3.** *Be it enacted,* That there shall be two elec-
tors. tors for the State, who may reside in any part of the State,
and that any citizen of the State qualified by law to vote
for members of the General Assembly shall be qualified to
vote for the whole number of electors, to be resident as
aforesaid, and the fifteen persons aforesaid receiving the
highest number of votes in the whole State shall be de-
clared the electors.

Duty of sheriffs. **SEC. 4.** *Be it enacted,* That it shall be the duty of the
sheriff or coroner, or other person or persons, as the case
may be, of the respective counties of this State holding

elections, to meet at the court house of the county in which they reside on the day immediately succeeding said election, and compare the votes polled for electors as aforesaid, and make out a triplicate statement of the number of votes received by each person who may have been voted for as elector of President and Vice President of the United States, and deposit one of the statements, regularly certified by the officers holding said election, in the office of the clerk of the county court, taking his receipt therefor; and depositing one copy in the post office at the court house of the county where said election may be held, directed to the Governor and Secretary of State; and to direct the other in the same way by the next mail immediately thereafter, and take receipts of the postmaster for the same; and any sheriff, coroner, or other person or persons, as the case may be, failing to comply with the provisions of this act, shall forfeit and pay five hundred dollars, to be recovered by action of debt by any person who may sue for the same before any tribunal having cognizance thereof.

SEC. 5. *Be it enacted*, That the Governor and Secretary of State shall receive all the returns made by the officers holding said elections from the post office in Nashville, except from such officers as may choose to make returns to the Governor and Secretary in person immediately thereafter, and the same shall be as valid as if transmitted by mail as aforesaid; and it shall be the duty of the Governor and Secretary, as aforesaid, on receiving said returns of the respective officers of the State holding said election of electors for President and Vice President, to compare the same, and upon ascertaining the fifteen persons receiving the highest number of votes in the whole State, resident as aforesaid, to furnish each person with a certificate of his election, and cause the same to be published in at least one newspaper published at the following places, to wit: Nashville, Knoxville and Jackson. Election returns.

SEC. 6. *Be it enacted*, That the several persons who shall be appointed to conduct the election of electors for President and Vice President of the United States shall be liable to the same penalties and forfeitures as are provided by law for the regulation of elections in this State. Conductors of election.

SEC. 7. *Be it enacted*, That each elector of President and Vice President of the United States shall, before the hour of twelve o'clock, on the day next preceding the day fixed by the law of Congress to elect a President and Vice President of the United States, give notice to the Governor that he is at the seat of government and ready at the proper time to perform the duties of elector, and the Governor shall forthwith deliver to the electors present a certificate of all the names of the electors; and if on examination thereof, it shall be found that one or more of said electors are absent, Their duty.

and shall fail to appear before nine o'clock in the morning of the day of election of President and Vice President, as aforesaid, the electors there present shall immediately proceed to elect by ballot, in the presence of the Governor, any qualified resident citizen or citizens of the State, as the case may be, to fill such vacancy or vacancies as may have occurred through the non-attendance of one or more of the electors.

Meeting of electors at Nashville

SEC. 8. *Be it enacted*, That the electors so elected shall meet in the city of Nashville on the first Wednesday in December, one thousand eight hundred and forty, and vote for President and Vice President of the United States, and make return thereof agreeably to the laws of the United States, in that case made and provided; and each elector shall be allowed four dollars for every twenty-five miles he shall necessarily travel in going to and returning from the seat of government, and four dollars per day whilst attending at the same as elector, for which the Governor may issue his warrant to the Treasurer of this State.

Public notice of election.

SEC. 9. *Be it enacted*, That the sheriffs or coroners of each and every county in this State shall advertise at the court house, and in each civil division in their respective counties, the day on which said election of electors for President and Vice President shall take place, at least sixty days before the time appointed for holding said election.

Voters in new counties.

SEC. 10. *Be it enacted*, That the qualified voters residing within any of the new counties established during the session of the General Assembly of 1835 and 1836, or since that time, shall vote with the counties from which they are detached respectively, agreeably to the provisions of the 10th article section 5th of the constitution.

Judges of election.

SEC. 11. *And be it enacted*, That if the county court shall neglect or omit to appoint judges to hold the said election, as provided in this act, then the sheriff or other officer holding said election shall appoint judges out of the by-standers at said election to hold the same.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 24th, 1840.]

Speaker of the Senate.

CHAPTER LXXX.

An Act to repeal an act entitled an act to attach a part of Perry county to the county of Wayne, passed December 26th, 1837.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the above recited act is hereby repealed. Repeal.

SEC. 2. *Be it enacted,* That the part of the county of Perry as intended to be stricken off to Wayne county, shall be that part of the bend of the Tennessee river lying east of a due line north from David Roach's landing on said river. Perry county.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER LXXXI.

An Act to authorize the county courts of Bradley and Polk counties to elect surveyors, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the county courts of Bradley and Polk counties be, and they are hereby authorized to appoint a surveyor for their respective counties, under the same rules as prescribed for the appointment of surveyors north and east of the congressional reservation line and north of Tennessee river. Surveyors
for Bradley and
Polk.

SEC. 2. *Be it further enacted,* That any one of the commissioners appointed in the third section of an act to establish the county of Powell, passed on the 30th day of December, 1839, shall have full and ample power to administer all oaths necessary for the qualification of any officer elected under the provisions of the before recited act, and to exercise all other powers not expressly conferred by the aforesaid act, for the purpose of organizing the county of Powell. Oaths.

SEC. 3. *Be it further enacted,* That any judge of this State, or any justice of the peace of the county of Polk, be, and he is hereby authorized to administer the oaths required by law to the clerks, sheriffs and other county officers who may be appointed or elected for said county of Polk. Administration
of oaths.

SEC. 4. *Be it further enacted,* That the militia of the county of Polk shall constitute the 152d regiment, and shall be attached to the 6th brigade of Tennessee militia; and an Militia.

election shall be held in the manner and in the places as prescribed by law, on the second Thursday of September next in said county, for the appointment of militia officers for said regiment.

Sheriff of Warren county. **Sec. 5.** *Be it further enacted,* That it shall be the duty of the sheriff of the county of Warren, by himself, or by persons properly appointed by him as returning officers, to hold the election for county officers for the county of Van Buren on the first Saturday in March next, at the precincts and places at which elections have formerly been held in the bounds of the territory now composing said county, for all the county officers of said county, in the same manner and for the same officers as is provided for by the act of 1836, chapter two; and the polls in said election shall be compared at the house of William Worthington, where the courts of said county are now by law directed to be held, and the said officers who may be elected shall be qualified as is by said act provided, and forever thereafter such elections shall be held in said county as is or may be provided by general law for the other counties of this State.

County of Van Buren. **Sec. 6.** *Be it further enacted,* That the justices of the peace who are retained in office by the act establishing the county of Van Buren shall hold their first county court at the place appointed by said act on the first Monday in April next, at which time it shall be lawful for them to qualify the county officers, assess taxes, and do all other acts which by law such county court is empowered to do.

Sheriff of Van Buren. **Sec. 7.** *Be it further enacted,* That it shall be the duty of the sheriff of the county of Van Buren, when the commissioners shall designate the places to be voted for the seat of justice of said county, as is provided for in the fifth section of the act establishing the county of Van Buren, to hold the election or elections for the same as is provided for in said section, and the election for the same shall be held on Thursday the thirtieth day of April next after the passage of this act, and the same or any subsequent election for the same shall be advertised as required by the said fifth section of said act, and the place elected shall be established as the seat of justice as therein recited.

Commissioners for the sale of lots. **Sec. 8.** *Be it further enacted,* That the five commissioners to lay off and sell lots and superintend the erection of public buildings, as is provided for in said fifth section, or in any subsequent portion of said act establishing said county, may be appointed at the May term of said court next after the passage of this act, or at any subsequent term of the same, and that such parts of the said act establishing said county of Van Buren, passed on the third day of January, 1840, inconsistent with the provisions of this and the three preceding sections of this act, are hereby repealed.

SEC. 9: *And be it further enacted*, That the county courts of the several new counties of this State, established since the ratification of the present constitution, may have power to make appropriations to pay for all arrearages of expenses which may have been or may be incurred in the surveying and designation of the boundaries of such counties. County courts of new counties.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed January 21st, 1840.]

CHAPTER LXXXII.

An Act to make penal the misuse or misapplication of public money.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That if any person or persons, whose duty it shall be by virtue of his or their office or appointment under the law to collect money, property or other effects, or to receive and pay over money, property or other effects belonging to the State or any county in the State, shall convert to his own use in any way whatever, or shall use by way of investment in any kind of property or merchandise, or shall loan with or without interest any portion of the public money entrusted to him for safe keeping, disbursement, transfer, or for any other purpose, such act shall be deemed and adjudged an embezzlement of so much of the said money as shall be thus taken, converted, invested, used, or loaned, which is hereby declared to be a high misdemeanor; and the person or persons so using or spending, or otherwise disposing of such money, property or other effects, shall be liable to presentment or indictment in the circuit court of the county where the offence was committed, or where such persons reside, and upon conviction shall be adjudged to undergo close confinement in the common jail and penitentiary of the State for a period of time not less than one nor more than five years, which period of time shall be ascertained and fixed by the jury rendering the verdict. Collectors. Penalty.

SEC. 2. *Be it enacted*, That any person or persons, being an officer of this State or of any county in this State, shall, under the judgment or decree of any court, collect or receive any money, property or other effects belonging to the State or any county in the State, and such officer shall use, spend, or otherwise dispose of such money, property or other Public officers.

effects knowingly, contrary to law, and the duties of his office, he or they shall be liable to indictment or presentment in the circuit court of the county where the offence was committed, or where such person or persons shall reside, and upon conviction shall be adjudged to undergo in the jail and penitentiary of the State close confinement for a period not less than one year nor more than five, which period of time shall be ascertained and fixed by the jury rendering the verdict.

Bonds.

SEC. 3. *Be it enacted*, That nothing in this act contained shall alter or in any way change the liability of officers and their securities under the bonds given or hereafter to be given by them; but that all such bonds given or hereafter to be given shall have the same effect as if this law had not been passed: *Provided*, that if the officer or person shall, according to law, account for and pay over all money, property or other effects by him or them collected or received, he or they shall not be within the provisions and operation of this act.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER LXXXIII.

An Act to suspend the entry of lands in the Ocoee district.

Suspension of
entries. SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That from and after the fourth day of April, one thousand eight hundred and forty, the entry of land in the entry taker's office in the Ocoee district shall be suspended until the fifth day of April, one thousand eight hundred and forty-one; and that said entry office from and after the fourth day of April, one thousand eight hundred and forty, shall be closed and remain closed until the fifth day of April, one thousand eight hundred and forty-one.

Duty of entry
taker. SEC. 2. *Be it enacted*, That it shall be the duty of the entry taker of the Ocoee district to open the entry office of said district on the fifth day of April, one thousand eight hundred and forty-one, and receive entries at the same price as by law now directed, and under the same rules, regulations and restrictions, and with the same benefits and advantages that now are in force and enjoyed when said entry office shall be closed; and all the provisions of an act entitled an act to dispose of the lands in the Ocoee district,

passed the 29th day of November, one thousand eight hundred and thirty-seven, and also of an act amendatory of the above recited act passed at the present session of this General Assembly, suspended by this act, shall from and after the opening of the entry office as aforesaid be revived.

SEC. 3. *Be it enacted*, That when the entry taker's office shall be opened, as provided in the second section of this act, on the fifth day of April, 1841, all and every person or persons then in the actual possession of any vacant and unappropriated quarter or fractional quarter or lot of land in said district, shall be entitled to a preference or priority of entry on the same under the same rules, regulations and restrictions, and with all the benefits and advantages of the said acts of which this act is an amendment.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 24th, 1840.]

Speaker of the Senate.

CHAPTER LXXXIV.

An Act to declare Conasauga river navigable.

Be it enacted by the General Assembly of the State of Tennessee, That the Conasauga river in Bradley county be, and the same is hereby declared navigable from where the main road crosses the said river, near John Kenedy's, to the Georgia line below the boat yard.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER LXXXV.

An Act to authorize judgment by motion to be taken against clerks of the several courts of this State for failing to render an account and paying over monies by them collected for the use of the several counties of this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That if any clerk of the county court, circuit court, chancery court or supreme court in this State, shall fail or refuse to render to the trustee of his county the

amount of the money by him collected and due said county, in the manner prescribed by law, it shall be the duty of said trustee, at the first term of the circuit court of his county after such failure, or at any subsequent term thereof, to cause the attorney general to move said circuit court for judgment against said clerk and his securities upon his bond, in the name of the Governor, for the use of said county; and it shall be the duty of said circuit court immediately to give judgment against such clerk and his securities for the penalty contained in said bond, and shall award execution: *Provided*, that if such clerk, at any time before the payment of such judgment, produce to said trustee an account sworn to and certified in the manner prescribed by law, and pay him the full amount thereof, and interest due thereon from the time the same should have been paid, without deducting any commissions, the said trustee shall receive the same in discharge of said judgment, leaving the clerk and his securities liable to pay the costs of said suit.

Clerk's failure
to pay over.

SEC. 2. *Be it enacted*, That if any such clerk, after rendering to the trustee of his county the account of the monies by him collected and due the county, in the manner prescribed by law, shall fail to pay to said trustee the amount due thereon, it shall be the duty of said trustee to cause the attorney general to move the circuit court of his county at the next term of said circuit court after said failure, or at any subsequent term thereof, for a judgment against such clerk and his securities, in the name of the Governor, for the use of said county; and it shall be the duty of said circuit court immediately to give judgment against such clerk and his securities for the amount which appears to be due said county by said account, with interest thereon from the time said account should have been paid, together with twelve and one half per cent. damages and all costs.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 25th, 1840.]

Speaker of the Senate.

CHAPTER LXXXVI.

An Act to extend the corporate limits of the town of Gallatin, in the county of Sumner.

Extension of the
limits of Gallatin.
SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the corporation of the town of Gallatin, in the county of Sumner, be, and the same is hereby extended over the following territory, viz: beginning on

main street, at the extreme eastern boundary of said town, thence north twenty-five degrees west, to Francis Youree's line, thence south with his line to his south-west corner, thence north with the line between said Youree and Guild to the middle of the creek, with its meanders, to General Joseph Miller's north boundary, thence east with Miller's line and the southern boundary of the grave yard to said Miller's gate, thence east twenty-five degrees north, crossing water street, south of the place where B. Watkins lives, to a point due south of the beginning, thence north to the beginning.

SEC. 2. *Be it further enacted*, That the corporate authorities of said town of Gallatin may exercise all the powers, privileges and immunities which they are now entitled to exercise in the old part of said town in and over the territory above described: *Provided*, that nothing herein contained shall prevent any subsequent legislature from altering or repealing any part or the whole of this bill whenever the general welfare or public interest shall require it.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER LXXXVII.

An Act to authorize William Brown, Joseph Kimbrough and William K. Waddy to open a turnpike road.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That William Brown, Joseph Kimbrough and William K. Waddy are authorized to open and keep in repair a turnpike road from the west foot of the Cumberland mountain, in White county, to intersect George Gordon's and William Brown's turnpike road at or near the house of George Dawson, in Bledsoe county: *Provided*, that said William Brown, J. Kimbrough and William K. Waddy shall within two years from the first day of January, 1840, make said road as hereinafter required.

SEC. 2. *Be it enacted*, That it shall be the duty of said company to open said road at least eighteen feet wide, except on hill and mountain sides, which shall be fourteen feet wide, clear of timber, roots and rocks which might impede the progress of wagons or other carriages, where the ground over which it passes will permit it to be done; no elevation on said road shall exceed seven and a half degrees; and to bridge all water courses on said road with substan-

tial materials, at least fourteen feet wide; and place substantial hand-rails on said bridge.

Commissioners. SEC. 3. *Be it enacted,* That George Dawson and Joseph M'Cleendon be, and they are hereby appointed commissioners, who shall be governed by the same rules and have the same power that the commissioners have who are appointed on George Gordon's and William Brown's turnpike road.

Gate and tolls. SEC. 4. *Be it enacted,* That said company, their heirs and assigns, are authorized to erect and keep a gate on said road, and to demand and receive from every person passing said road at said gate, except persons going to preaching, muster and mill, and persons with their stock going and returning from the range, the following toll, to wit: for each four wheeled carriage and its burthen, if drawn by one horse, mule or ox, fifty cents; if by two, sixty-two and a half cents; and if by three, or not more than four, seventy-five cents; if over four, eighty-seven and a half cents; for each two wheeled carriage and its burthen, if drawn by one horse, mule or ox, twenty-five cents; if over that number, thirty-seven and half cents; for each four wheeled carriage of pleasure with the passengers, if drawn by horses or mules, seventy-five cents; if over two, one dollar; for each two wheeled carriage of pleasure, if drawn by horses or mules, thirty-seven and a half cents; if by more, fifty cents; for man and horse, twelve and a half cents; for each loose horse, mule, jack or jennet, if not in a drove of more than three, six and a quarter cents; if in a drove, three cents for each head; for each head of cattle, two cents; for each hog or sheep, one cent.

Forcible or secret passage of gate. SEC. 5. *Be it enacted,* That if any person shall forcibly or secretly pass said gate without paying the toll, or go around the said gate to avoid the payment of toll, such person so offending shall forfeit and pay five dollars for every such offence to the said company, their heirs, &c. to be recovered by action of debt before any justice of the peace in this State.

Gate keeper. SEC. 6. *Be it enacted,* That the person appointed to keep said gate by said company shall take the same oath as is prescribed by law for persons keeping said Brown's and Gordon's turnpike gate.

Duty of commissioners. SEC. 7. *Be it enacted,* That it shall be the duty of the commissioners aforesaid, when notified by the said company that said road is in the repair contemplated by this act, to proceed and examine said road, and if they find the same to be in a proper state of repair, they shall issue to said company a license authorizing them to take the toll set forth in this act; and it shall be duty of the aforesaid commissioners to view said road once at least every six months, and if they find said road out of repair, it shall be their duty to

open said gate; and for their services as commissioners shall be entitled to receive from said company two dollars and fifty cents per day for each day they may be employed about the same.

SEC. 8. *Be it enacted*, That said company, their heirs and assigns shall have and enjoy all the rights and privileges secured by this act for the term of twenty-five years, and no longer. Corporate rights.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER LXXXVIII.

An Act to increase the tax on brokers.

Be it enacted by the General Assembly of the State of Tennessee, That the fourth section of an act setting forth the property, real and personal, and the privileges and occupations liable to taxation in this State, be so amended that each and every broker shall pay annually a tax of two thousand dollars. Tax on brokers.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 25th, 1840.] *Speaker of the Senate.*

CHAPTER LXXXIX.

An Act to incorporate the Central Female Academy at Hartsville.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the president, trustees and stockholders of the Hartsville Female Academy be, and they are hereby constituted a body politic and corporate, by the name of the president, trustees and stockholders of the Central Female Academy at Hartsville, and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, personal, real and mixed, and shall have succession for one hundred years; and by said corporate name may sue and be sued, and may have and use a common seal, which they may alter or renew at their Body politic.

pleasure, and shall have and execute all the rights, powers and privileges which corporations may lawfully have; also, to ordain, establish and put in execution such by-laws and regulations as shall be necessary and proper for the transaction of business of the said corporation, and erecting, endowing and governing institutions for female education: *Provided*, that the same shall not be inconsistent with the constitution and laws of this State and of the United States.

Election of trustees. SEC. 2. *Be it enacted*, That eleven trustees shall be elected annually on the first Thursday in January, and that the present trustees shall remain in office until a new board is elected and organized. It shall be the duty of the board of trustees to elect one from among themselves to be president of the board. The president and trustees shall have power to appoint, engage and employ such teachers, a president of said institution, officers, clerks, stewards and servants under them for the transaction of the business of said corporation, and to allow suitable compensation for their services, and shall have all powers for the management of all things necessary to the prosperity of said institution which corporations can have under their by-laws.

Stockholders to elect trustees. SEC. 3. *Be it enacted*, That the stockholders in said company or institution shall have the electing of a board of trustees.

Individual property holden. SEC. 4. *Be it enacted*, That the individual property, both real and personal, of every stockholder shall be held and bound for the debts of said corporation to the full amount of stock severally subscribed and not paid into the general fund.

Opening of books. SEC. 5. *Be it enacted*, That books shall be opened forthwith in Hartsville for the purpose of taking stock in said institution, and that it be lawful for an amount to be taken that shall be sufficient to carry into execution the contemplated object; and that the amount already subscribed shall be considered part of the capital stock, to be subject to the same rules and regulations of the stock hereafter taken under this act of incorporation.

Shares. SEC. 6. *Be it enacted*, That the stock in said institution shall be taken in shares of twenty-five dollars each, payable in such instalments as the company may from time to time agree upon; and if any stockholder shall fail or neglect to pay one instalment or part of his subscription when called on by the president and trustees, the president shall give him notice to pay the same within thirty days, which if he fail or refuse to do shall forfeit his entire stock, with all that has been paid on it, to the benefit of the company, who shall sell said forfeited stock to the best advantage for the institution: *Provided*, the president and trustees may remit said forfeiture and sue the defaulting stockholder by action of debt before any tribunal having cognizance of the

same, and cause the same to be made out of his or her individual property. If after judgment is obtained it is not eventually paid the above forfeiture shall attach.

SEC. 7. *Be it enacted*, That the fundamental rules for Government. the government of said corporation shall be the same as those of Sumner County Female Academy, at Gallatin.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER XC.

An Act to repeal all laws declaring the little north fork of Forked Deer river navigable.

Be it enacted by the General Assembly of the State of Tennessee. *Repeal.* That all laws heretofore passed declaring the little north fork of Forked Deer river navigable to Lea's mills, be, and the same are hereby repealed.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER XCI.

An Act to amend an act entitled an act to establish turnpike bridges in the Western District.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee.* *Repeal.* That so much of an act passed the 16th of October, 1829, entitled an act to establish turnpike bridges in the Western District, as requires the undertaker to construct and keep up a bridge across Hatchie river at Estanaula, be, and the same is hereby repealed.

SEC. 2. *And be it further enacted*, That whereas Joel Wilson did become the undertaker under the above recited act, and constructed a bridge and levee according to the provisions of said act, but in consequence of the foundation being sandy, said bridge could not be made to stand; therefore, he be authorized and required to substitute and keep in constant repair, during the term of the charter, a good, substantial and commodious ferry boat, sufficiently large to convey

Ferry boat
across Hatchie
river.

all persons, carriages, wagons, stock, &c. across said river safely and without unnecessary delay, in connection with the levy, in lieu of said bridge, and that he be entitled to all the privileges and benefits arising from said ferry as was secured to him by the keeping of a bridge.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 23d, 1840.]

Speaker of the Senate.

CHAPTER XCII.

An Act to alter and amend the several acts in relation to the Bean Station turnpike road.

Grainger and
Claiborne com-
missioners.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That hereafter two of the commissioners appointed to superintend the Bean Station turnpike road shall be resident citizens of Grainger county, and one shall be a resident of Claiborne county.

Repeal.

SEC. 2. *Be it enacted*, That all laws contrary to the first section of this act be, and the same are hereby repealed.

SEC. 3. *Be it enacted*, That so much of an act passed 6th January, 1838, entitled an act to amend the several acts in relation to the Bean Station turnpike road as makes Gabriel M'Craw, of Hawkins county, and Nelson A. Senter, of Grainger county, commissioners of the Bean Station turnpike road, be, and the same is hereby repealed.

Commissioners.

SEC. 4. *Be it enacted*, That Charles M'Annally and John Loferty, of Grainger county, and Peter Markum of Claiborne, be, and they are hereby appointed commissioners of the Bean Station turnpike road, and shall have and possess all the powers and privileges that are now by law conferred on the commissioners on said road.

Gate keeper's
duty.

SEC. 5. *Be it enacted*, That the gate keeper shall make to the commissioners aforesaid accurate quarterly reports on oath of all the money by him received and expended, and pay over the same to said commissioners at the time of making said report, the first report to be made on the 1st day of April, 1840.

Overseer's du-
ty.

SEC. 6. *Be it enacted*, That the overseer of said road shall make accurate quarterly reports under oath of all the monies by him expended, for what paid, to whom paid, the amount paid to each particular object or person; and the said commissioners shall present the accounts; thus from time to time received from the gate keeper and overseer, to the county court, at the time prescribed for such commis-

sioners to present to the county court of Grainger county the statement called for in the second section of an act entitled an act to amend the several acts in relation to the Bean Station turnpike road.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed January 27th, 1840.]

CHAPTER XCIII.

An Act to incorporate the Duck river Steam Navigation Company.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That a body corporate and politic is hereby constituted and established, to be known and designated by the name and style of the Duck river Steam Navigation Company. Body corporate and politic.

SEC. 2. That said corporation, by the name and style aforesaid, may sue and be sued, make by-laws, have succession, and do all such other acts and things, and be subject to such liabilities as are by the common law incident to corporations, and may in addition thereto do such other things and exercise such other powers and privileges as are herein-after enumerated. Corporate powers.

SEC. 3. That all persons who shall subscribe for or become the owners of stock, conformably to the rules herein-after prescribed, shall constitute members of said corporation. Owners of stock.

SEC. 4. That said corporation shall annually elect twelve directors, of whom five shall constitute a quorum to do all necessary business at any regular meeting; and that said directors shall hold a regular meeting four times a year, and as much oftener as may by them be deemed necessary and proper. Directors.

SEC. 5. That said directors shall elect one of their own number president, choose a secretary, a treasurer, and appoint all such other officers, agents and servants as may be required to carry into effect the purposes, perform the duties and construct the public improvements contemplated by this charter, fix their salaries, define their duties, and do all other acts and things which may be necessary and proper for the same. President and other officers.

SEC. 6. That said corporation shall have full power and authority to make Duck river navigable for steamboats from Columbia to the Tennessee river; and to effect this purpose Duck river.

may erect dams, dig canals, construct locks, and may take dirt, timber, rocks and all other necessary materials from all lands contiguous to said river.

Exclusive rights

SEC. 7. That said corporation shall possess and enjoy the exclusive right and privilege of navigating Duck river with steamboats; barges and keel boats, and may establish the rate they will charge for freight and the transportation of passengers; but all persons may descend said river with any flatboat or other crafts which is not designed to return for the navigation of said river without paying any toll or being subject to any penalty.

Rights of corporations.

SEC. 8. That said corporation shall have the right to sell and lease at their several dams and locks the privilege of using the water in said river, for the purpose of propelling machinery of all kinds, in such manner and quantity as will not impede or injure the navigation.

Damages.

SEC. 9. That if any person shall conceive himself injured by said corporation taking his timber, rocks or other materials, or digging or flooding his land or other property, by the construction of said improvements, he may apply to the circuit court of the county in which the injury may be done for a writ of *ad quo ad damnum* to be directed to the sheriff of such county to empanel a jury of freeholders to go on the premises and assess the amount of damages which may have been sustained; and the court shall, upon the return of such assessment, render judgment and award execution for the same, and the said court may at the same time condemn and vest such land as may have been overflowed in said corporation, upon the payment of the value assessed; and the said corporation may in like manner apply to the circuit court of the county in which any land lies which may be necessary for the construction of said improvements, and have the same condemned and vested in them, upon the payment of its value, to be assessed in the manner above directed: *Provided*, that in every such case ten days notice shall be given of such intended application by any private person and by said corporation.

Obstructions and injuries.

SEC. 10. That every person who shall intentionally obstruct said corporation in the construction of said improvements, or who shall intentionally destroy or injure any part of the same, shall be liable to presentment or indictment, and on conviction shall be fined not less than fifty nor more than one thousand dollars, and may be imprisoned not less than one nor more than twelve months, and shall furthermore be liable to pay such damages as may be recovered by suit.

Capital stock.

SEC. 11. That the capital stock of said corporation shall be five hundred thousand dollars, and shall be divided into five thousand shares to consist of one hundred dollars each.

SEC. 12. That in the election of directors, and in all

acts to be done by the body of the corporators, every stockholder shall be entitled to one vote for each share he may own; all elections shall be by ballot, and the stockholders may vote by proxy in such manner as the directors may prescribe. Election of directors.

SEC. 13. That the stock in said corporation shall be transferable in such manner and form as the directors shall prescribe. Stock transferable.

SEC. 14. That the following persons are hereby appointed commissioners to open books for subscription of stock at the several places herein mentioned, to wit: at Columbia, R. B. Mays, James Walker, Gardiner Frierson, H. Langtry, Robert P. Webster, John B. Hamilton, Robert Campbell, Jr.; at Centreville, Boldin Gordon, Samuel B. Moore, David B. Warren, Edwin M. Baird and John Studdart; books to be opened on the first Monday in March, 1840, and continue open for thirty days; and if the sum of one hundred and fifty thousand dollars shall have been subscribed, the said commissioners at Columbia shall give public notice that an election will be held for directors at such time and place as they shall deem proper, and the stockholders may thereupon meet and elect said directors, who shall proceed to organize and commence the construction of said improvements. Commissioners.

SEC. 15. That said directors may at any time afterwards cause books to be opened for the subscription of stock, at such time and place as they may deem proper, till enough is obtained to complete said improvements: *Provided*, that nothing in this act shall be construed to prevent the Legislature at any time hereafter from incorporating any company or companies on said river above Columbia, under such rules, regulations and restrictions as may be deemed advisable: *Provided*, that nothing herein contained shall be so construed as to prevent any subsequent Legislature from altering [or] amending any of the privileges contained in this charter of incorporation. Opening of books.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER XCIV.

An Act to authorize Josiah M. Anderson, of Marion county, and George W. Williams, of Hamilton county, to open a turnpike road.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That Josiah M. Anderson, of the county of Marion, and George W. Williams, of Hamilton county, are hereby constituted a body politic and corporate for the purposes herein specified, and they are hereby authorized to open and cut out a turnpike road, commencing at a point on the public road leading down Sequatchee Valley, on the south side of the creek, at or near John Bennett's, in Marion county, thence crossing Walden's ridge, the nearest and most practicable route, to a point on the north bank of Tennessee river, opposite, or nearly so to the town of Chattanooga, in Hamilton county; which road, where the situation of the county will admit of it, shall be opened thirty feet wide between the river opposite Chattanooga and the eastern base of Walden's ridge, and shall in the whole extent be opened eighteen feet wide, clear of stumps, rocks and other obstructions, and causewayed where necessary; and where the nature of the ground is such that it cannot be extended to the width herein required, said road may, with the consent of the commissioners, be reduced to any width not less than twelve feet, clear of stumps, roots and other obstructions; and if there should be any creek or creeks that from their nature require it, there shall be good and substantial bridges built across them; and if there should be any swamps over which said road may be taken, it shall be the duty of the proprietors of the said road to causeway said road with either stone or wood, to be made over said swamps, at least twelve feet wide, clear of stumps, logs or other obstructions.

Width of road.

Repairs.

SEC. 2. *Be it enacted,* That said road shall always be kept in repair, and if it should be permitted to be and remain out of repair for two months at any one time after the road is opened and established by commissioners hereinafter appointed by this act, said commissioners shall immediately make report thereof to the county court of either Marion or Hamilton county, if it should be six months before the session of the Legislature; and when said court shall receive said report, they shall order it to be recorded; and said commissioners shall also proceed to open said turnpike gate, and keep the same open until said road shall be by them adjudged to be in good and sufficient order, they may then grant license, under their hands and seals, to said proprietors to shut the said gate for the purpose of exacting toll; and if said proprietors shall either directly or indirectly exact, take or receive any toll during the time said commissioners set

said gate open, said proprietors for every such offence shall forfeit and pay the sum of twenty dollars, to be recovered before any justice of the peace by any person who will sue for the same; and if the said road shall be permitted to be and remain out of repair any time within six months before the session of the Legislature, said commissioners after setting open the gate, shall report the same to the General Assembly, whose duty it shall be to elect new proprietors, who, when so elected, shall be entitled to receive all the toll rated in this act, and shall be bound by the same duties, regulations, restrictions and penalties as are prescribed by this act for the original proprietors to do and perform.

SEC. 3. *Be it enacted*, That James A. Whitesides, of ^{Commissioners.} Hamilton county, and John Bennet and Moses Easterly, of Marion county, be, and they are hereby appointed commissioners of the aforesaid road, and they, or any two of them, shall be capable at all times to do and perform all the acts and duties required of them by this act; and when the proprietors shall notify said commissioners that the said road is cut out and completed for use, said commissioners shall proceed to examine said road, and if said road is in their opinion in the order contemplated by this act, they shall proceed to license said proprietors to keep a toll gate on the top or at the base of said mountain, which license shall be under their hands and seals, and thereupon said proprietors may proceed to erect a toll gate on said road, and shall be entitled to receive the following rates of toll, to wit: for each wagon and team, fifty cents; cart and driver, twenty-five cents; four wheeled carriage of pleasure, seventy-five cents; two wheeled carriage of pleasure, thirty-seven and a half cents; man and horse or mule, twelve cents; loose or led horse or mule, not in a drove, six cents; horse or mule, in a drove, three cents; each head of cattle, two cents; each head of hogs or sheep, one cent: *Provided*, that no person or persons taking his, her or their live stock to range on the mountain, or returning with the same therefrom, shall be liable to pay toll at said gate; and said proprietors shall measure and mile-mark said road on suitable posts, and keep the same mile-marked as other roads.

SEC. 4. *Be it enacted*, That the commissioners herein <sup>Oath of com-
missioners.</sup> appointed by this act shall, before they enter upon the duties of their appointment, take and subscribe the following oath before some justice of the peace for said county of Marion or Hamilton, to wit: I do solemnly swear that I will well and truly perform the duties enjoined on me by this act according to the best of my knowledge and abilities, so help me God. And said commissioners shall be entitled to receive at the rate of two dollars per day for every day they may be necessarily employed in performing the

duties enjoined on them by this act, to be paid by the proprietors of the road.

Damages. SEC. 5. *Be it enacted*, That if any part of said road shall be out of repair at any time after it is received by said commissioners, and by reason of which any person or persons shall sustain any damage, either in person or property, he, she or they may have and sustain an action on the case against said proprietors for the damage sustained.

Arbitrary passage of gate. SEC. 6. *Be it enacted*, That if any person or persons shall pass such gate arbitrarily or within one mile thereof, for the purpose of evading the toll, such person or persons shall forfeit and pay for every such offence to said proprietors the sum of ten dollars, to be recovered by action of debt before any justice of the peace in this State.

Mails. SEC. 7. *Be it enacted*, That any mail carrier on horseback shall at all times pass said gate free from paying any toll, and that all mail stages shall be permitted to pass said gate by the payment of one half of the toll.

SEC. 8. *Be it enacted*, That the Legislature, after the lapse of thirty years, shall be authorized to repeal the charter hereby granted.

SEC. 9. *Be it enacted*, That nothing in this act contained shall be so construed to authorize or require the Governor, on behalf of the State, to subscribe for any part of the capital stock of said company.

Fine allowed for completion. SEC. 10. *Be it enacted*, That if said road shall not be commenced and finished within three years from the passage of this act then the privilege hereby granted shall be void.

☞ SEC. 11. *Be it enacted*, That in the event that the State of Georgia does not construct the Western and Atlantic rail road to the Tennessee river, then the Lookout rail road company shall have the further time of two years in which to commence work on their road, and four years in which to finish it, with all the rights and privileges, and subject to all the liabilities and restrictions of an act entitled "an act to incorporate the Lookout rail road Company," passed October 30th, 1837, and all the rights and privileges acquired by said company under said act are hereby revived and continued.

Lookout rail road company. SEC. 12. *Be it enacted*, That said Lookout rail road Company shall, at their discretion, have the privilege of increasing the capital stock of said company to any sum not exceeding five hundred thousand dollars, books of subscription for which purpose shall be opened under the direction and control of the directors of said company at such time and place as they may deem proper: *Provided*, that the State of Tennessee shall not take any part of the stock herein authorized to be issued.

SEC. 13. *Be it enacted*, That John Payne and William Worthington, of the county of Van Buren, and Thomas Mabury, of Warren county, are hereby authorized to open and keep up a turnpike road, commencing at Spencer, the county seat of Van Buren, and running the nearest and best way, in the direction of Kingston, so as to intersect the road from Sparta to Kingston near the Crab Orchard, on Cumberland mountain; and they shall have the same powers and privileges herein given to, and be subject to the same restrictions imposed upon Josiah M. Anderson and George W. Williams; and Joseph Cummings and William Denny, of the county of Van Buren, are hereby appointed commissioners to view said road when finished.

SEC. 14. *Be it enacted*, That Uriah York, of the county of Van Buren, and Aaron Schoolfield, of Bledsoe county, are hereby authorized to open and keep up a turnpike road, commencing at Spencer, the county seat of the county of Van Buren, and running the nearest and best way, in the direction of Pikeville, to the foot of the mountain, in Bledsoe county, who shall have the same powers and privileges herein given to, and be subject to the same restrictions imposed upon Josiah M. Anderson and George W. Williams; and William Grisham, of Van Buren county, and Peter Hoodenpyl, of Bledsoe county, are hereby appointed commissioners to view said road when finished; and whenever it shall become necessary for the commissioners of either of these roads, commencing at Spencer, to make report to the county court as required in the second section of this act, said report shall be made to the county court of the county of Van Buren: *Provided*, said commissioners shall be allowed two dollars per day for each day they may be actually employed in discharging the duties hereby imposed upon them, to be paid by the said proprietors.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 23rd, 1840.]

Speaker of the Senate.

CHAPTER XCV.

An Act to re-appoint Dr. Gerard Troost to the office of Geologist, Mineralogist and Assayer of the State of Tennessee.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That Dr. Gerard Troost, the present Geologist, Mineralogist and Assayer of the State, shall be continued in office for the period of two years after his pres-

State Geologist.

ent term of service, as defined by an act passed 18th of January, 1838, shall have expired.

Salary. SEC. 2. *Be it enacted*, That said Gerard Troost shall continue to receive a salary of five hundred dollars (\$500,) to be paid to him annually by the Treasurer of the State on a warrant drawn by the Comptroller, and as heretofore diligently perform all services required of him by the General Assembly, and shall make a report to it at its next regular session embracing every observation and discovery that he may have made, and that he may deem valuable as matter of science, or practically useful as tending to promote and advance the agriculture, manufactures and commerce of the State.

Duty of Geologist. SEC. 3. *Be it enacted*, That it shall be the duty of said Geologist to report to the next General Assembly of this State the nature and kind of soils in the three divisions of the State, the kind of agricultural products best adapted to each of the different kinds of soil, and also the cheapest and best applications that may be used for the purpose of strengthening and renewing a soil that is worn out or injured by cultivation; that he report the location and number of iron works in this State, the probable quantity of iron made at each, also the different methods employed by said establishments in reducing iron ore, and that he state which, in his opinion, is the best and cheapest method; and that he ascertain and report the location, quantity and kind of mineral coal in this State, and the use to which the different kinds of coal may be applied, and also whether the gas exhibited by the burning of certain kinds of coal in this State is not injurious to health.

SEC. 4. *Be it enacted*, That the said Gerard Troost shall spend an equal portion of his time in the three grand divisions of this State.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 29th, 1840.] *Speaker of the Senate.*

CHAPTER XCVI.

An Act to regulate the salaries of the officers of the Bank of Tennessee and branches.

Salaries of Bank officers. SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the respective officers of the Bank of Tennessee and branches shall for their services receive the following salaries, to be paid by the Bank or branch in the

service of which they may be severally employed, and charged to expense account of the same, to wit: the president of the principal Bank eighteen hundred dollars per annum; the cashier of the principal [Bank] eighteen hundred dollars per annum; the teller twelve hundred dollars per annum; each clerk in the principal Bank one thousand dollars per annum; the president of each branch four hundred dollars per annum; the cashier of each branch one thousand dollars per annum; each clerk in a branch five hundred dollars per annum.

SEC. 2. *Be it enacted*, That it shall not be lawful for a greater number of officers to be employed at any branch of the Bank of Tennessee, except the directory, than one president, one cashier and one clerk; and it shall not be lawful for a greater number of officers to be employed at the principal Bank of Tennessee than one president, one cashier, one teller and three clerks, except the directory.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 28th, 1840.]

Speaker of the Senate.

CHAPTER XCVII.

An Act to dispose of the profits of the Penitentiary, and for other purposes.

Be it enacted by the General Assembly of the State of Tennessee, That the agent and keeper of the Penitentiary shall settle and collect all monies now due to the institution either by note or account, and when collected, to pay the same into the public treasury; and he shall hereafter close and settle all accounts due on the first day of January in each and every year, and when payment is not made he shall take notes for the same; *Provided, however*, he may and shall, in the estimation of the inspectors, keep in his hands at all times a sufficient amount to meet and pay the current expenses of the institution; and *provided, also*, he shall not bring suits on the claims due except by the consent or order of the said inspectors.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER XCVIII.

An Act to incorporate an Academy in the county of Claiborne, to be called the Powell's Valley Male Academy.

SECTION 1. *Be it enacted by the General Assembly of the* Powell's Valley Male Academy. *State of Tennessee,* That George Shelton, David Rogers, John Jones, James Rogers, Nathan Ellington, Samuel Munday and William Rogers, be, and they are hereby constituted a body politic and corporate, by the name and style of the president and trustees of the Powell's Valley Male Academy; and as such they and their successors shall have perpetual succession and a common seal, and be capable in law of purchasing, receiving and holding any lands or any other property not exceeding twenty thousand dollars, which shall be given, granted or delivered to them, or purchased by them, for the use and benefit of the said Academy, and to appropriate, use and dispose of the same in such manner as may seem fit and proper for the use and benefit of said Academy; and the said trustees and their successors, by the name aforesaid, may sue and be sued, plead and be impleaded, in any court of law or equity.

SEC. 2. *Be it enacted,* That said trustees and their successors shall have power to hold meetings at such times and places as may be agreed upon from time to time by a majority of the board of trustees aforesaid, and to appoint a president, secretary and treasurer for said board, and to fill all vacancies that may happen by death, removal, resignation or otherwise, but not less than five members shall constitute a quorum to transact business relating in any manner to the management, interest or government of said institution.

SEC. 3. *Be it enacted,* That said board of trustees shall have power to make such by-laws, rules and regulations, relating to said Academy and the government thereof, as a majority of said board may deem right and proper, not inconsistent with the constitution and laws of Tennessee.

SEC. 4. *Be it enacted,* That the name of the institution incorporated by an act passed October 26th, 1807, and heretofore known as the trustees of East Tennessee College, be, and the same is hereby altered and changed to the trustees of East Tennessee University.

SEC. 5. *Be it enacted,* That the trustees of the East Tennessee University shall enjoy all the rights, privileges and immunities, and be regulated by the provisions heretofore enacted for the government of the trustees of East Tennessee College, and in addition thereto shall have the right, power and privilege of holding real and personal property for the support of schools for the learned professions, to grant and confer medical degrees, and shall use

and enjoy all other rights, privileges and powers usually conferred upon Universities.

SEC. 6. *Be it enacted*, That Hugh L. M'Clung, George M. White, Alexander Anderson, Joseph L. King, Solomon D. Jacobs and Thomas C. Lyde, be, and they are hereby appointed trustees of East Tennessee University, to fill the vacancies occasioned by the death of John Crozier, Rev. Thomas H. Nelson, Dr. James King, Dr. William K. Trigg and others.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER XCIX.

An Act to authorize the Cumberland and Stone's river turnpike company to surrender their charter for a part of said road, and [for] other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the president, directors and company of the Cumberland and Stone's river turnpike road may by deed surrender their charter for the whole of said road except that part of the same which lies between Lebanon and Hunter's warehouse, on the Cumberland river, which deed shall be filed in the office of the Secretary of State.

Stone's river
turnpike.

SEC. 2. *Be it enacted*, That when said surrender shall have been made, four of the directors on the part of the company and four on behalf of the State shall be permitted to resign, and the remaining three in behalf of the company and three in behalf of the State shall be competent, and are hereby authorized to transact the business and manage the affairs of said company, under the name and style of the Lebanon and Cumberland turnpike company; and shall possess all the powers and privileges, and be subject to all the liabilities that were granted by the act incorporating said Cumberland and Stone's river turnpike company, except so far as said act may be inconsistent with this act.

Directors.

SEC. 3. *Be it enacted*, That all bonds and obligations entered into by the contractors on that part of the road for which the charter is retained shall also be retained without alteration, and all other bonds executed by said company shall be cancelled, and the contractors released from any liability on account of the same; and the State bonds that were issued for the benefit of said company shall, if they have not already been, be paid over to the contractors whose con-

Bonds of con-
tractors.

tracts are retained, when they shall have complied with the same, and to paying a reasonable compensation for the work actually done on that part of the road which is released, or for expenses actually incurred, which shall be ascertained by the commissioners on said road in behalf of the State; and if the bonds which have been issued as aforesaid shall be insufficient, the residue shall be paid by the State to the person or persons entitled to the same.

Lebanon and Cumberland turnpike.
SEC. 4. *Be it enacted,* That the Lebanon and Cumberland turnpike road shall commence at Lebanon and run with the road laid off by the Cumberland and Stone's river turnpike company in the direction to Cumberland river six miles, and from thence to said river, at or near Hunter's warehouse; that the company shall be authorized to put the fraction of a mile over six miles under contract upon the same terms and in the same way the former part of said road was authorized to be let out.

Columbia, Pulaski and Elkton turnpike.
SEC. 5. *Be it further enacted,* That the president, directors and company of the Columbia, Pulaski and Elkton turnpike company may discontinue the building of that part of the above road which lies between Pulaski and the State line on the same conditions that are named in the Lebanon and Cumberland turnpike company, if they should think proper to do so.

Columbia Central turnpike.
SEC. 6. *Be it further enacted,* That the president, directors and company of the Columbia Central turnpike company may, with the assent of the Governor, the attorney general and Comptroller of the State, stop the construction of the Central turnpike road at Mount Pleasant; and if stopped, the present president, directors and company shall have all the rights, privileges and powers, and be subject to all the liabilities conferred by the original charter incorporating said company, and the road as far as constructed under the provisions of the existing charter shall vest in said company as a public highway agreeably to the provisions of the original charter.

SEC. 7. *Be it further enacted,* That if the construction of said road shall be stopped, as above provided, the number of the directors of said road on the part of the stockholders and of the State shall be reduced to five directors for each, and the present board of directors may be reduced to the number ten by the appointment of five directors on the part of the State and five on the part of the private stockholders resigning a surrender.

Directions to company.
SEC. 8. *Be it further enacted,* That upon the point where said road shall be stopped being fixed upon, in manner provided above, before said company shall be released from the obligation of constructing said road agreeably to the original contract, they shall by deed, to be filed in the office of the Secretary of State, surrender the excess of

the subscription of the State for the stock of said road in proportion to the subscription of the State in said road, over and above the amount which may have been expended in the construction of the road under the existing contracts, and shall surrender and file in the office of the Secretary of State, to be cancelled, the excess of the bonds of the State issued for the benefit of the company, with the interest [that] shall have been paid thereon by the State over and above the proportionable amount so expended in the construction of said road; and if such surrender be made by the company to the State, it shall be in such manner as to leave the State an equal stockholder in said road in expenditures and in the profits which may arise from the tolls or otherwise upon said road according to her subscription:

Sec. 9. *Be it further enacted*, That said road shall not stop short of the town of Mount Pleasant; *and provided*, that it shall not be lawful for said company to erect more than two gates on said road between Mount Pleasant and Columbia.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 28th, 1840.]

Speaker of the Senate.

CHAPTER C.

An Act to prevent public county roads from being obstructed by certain turnpike companies and others.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall not be lawful for any incorporated turnpike company, or any person or persons, to build any M'Adamized or turnpike road and place thereon any toll-gate, whether such road has been located or not, and whether the building of such road has been commenced or not, upon any part of any of the public county roads in this State whereby any person or persons or property shall be prevented from or obstructed in passing on such county roads free of toll, unless the county court of the court shall, by the votes of a majority of the justices of such county in favor thereof, permit the same to be done: *Provided*, that nothing in this act shall be construed to extend to M'Adamized roads already completed, or to roads to which the Governor has subscribed stock. And in case any turnpike company, or person or persons, shall be guilty of the offence mentioned in this act, the members of such company, or such person or persons, shall be liable to indictment, and

Unauthoria
turnpikes.

upon conviction thereof shall be fined in a sum not less than one thousand dollars, and the nuisance shall be abated.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 25th, 1840.]

CHAPTER CL.

An Act supplementary to the acts to incorporate the Lagrange and Memphis rail road company.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the president and directors of the Lagrange and Memphis rail road company are hereby authorized, if necessary, to increase the capital stock of said company to any amount not exceeding two millions of dollars; to enable the company to complete the main road from Memphis to Lagrange, the branch from Moscow to Sommersville, the extension of the branch from Sommersville to Jackson, as heretofore by law provided for the extension of the main stem from Lagrange to the Mississippi State line in the direction of Tuscumbia, or to the Tennessee river in the direction of Chattanooga, or for the purpose of constructing any other branch or branches which the directors may deem it expedient to establish in the counties of Shelby, Fayette, Hardeman, M'Nairy or Hardin.

SEC. 2. *Be it enacted,* That all real estate owned or hereafter purchased by said company, over and above the ground necessary for the road and depots as prescribed by the charter, shall be subject to taxation in the same manner as land owned by individuals; and all lands which may be purchased or obtained by donation at the *termini* of the road or branches, or at the principal depots, shall be sold for the benefit of the individual stockholders.

SEC. 3. *Be it enacted,* That the company are hereby allowed until the first day of January, 1842, to complete the main stem of the said road from Memphis to Lagrange, and the branch from Moscow to Sommersville.

SEC. 4. *Be it enacted,* That hereafter it shall be the duty of the Bank of Tennessee to pay the semi-annual interest accruing and to accrue upon the bonds of the State of Tennessee heretofore issued and hereafter to issue for account of stock owned by the State in said road.

SEC. 5. *Be it enacted,* That the Governor is hereby required to subscribe for twelve hundred and fifty shares in addition to the stock now owned by the State in said compa-

ny, being an amount equal to the present subscription by individuals: *Provided*, this act shall not be so construed as to authorize the company to claim or the Governor to issue in all, including as well those heretofore issued as those hereafter to be issued, more than two hundred and fifty thousand dollars in the State bonds; and the whole of that amount, with an equal amount raised from individual shareholders, shall be laid out upon the main road from Lagrange to the Mississippi and from Sommerville to the main stem at Moscow; *and provided*, that the State shall have a lien upon the private property of each stockholder until the whole of such stockholder's stock is paid up; also the State shall have a lien upon all the property of said company, including land owned and town sites purchased and donated as hereinbefore provided for, as a security to the State that all the stock held by individuals in said company is good and solvent and will be paid.

SEC. 6. *Be it enacted*, That the bonds for said twelve hundred and fifty shares shall be payable thirty years after date, and bear an interest of five per cent. per annum, payable on the first of January of each year at such place in the United States as the president of the Bank of Tennessee may designate; said bonds to be made payable to the president and directors of the Bank of Tennessee, and to be endorsed by the president of said Bank and delivered to the president and directors of said road.

Bonds.

SEC. 7. *Be it enacted*, That upon acceptance of the conditions specified in this act, the Governor of the State shall appoint an additional number of directors on the part of the State which will make the State's directors equal in number to those elected by the private stockholders in said company.

State directors.

SEC. 8. *Be it enacted*, That the bonds issued under the provisions of this act shall be issued in pursuance of the 23d section of an act passed the 19th January, 1838, entitled "an act to establish a State Bank to raise a fund for internal improvement, and to aid in the establishment of a system of education."

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 27th, 1840.]

CHAPTER CII.

An Act to distribute the Academy monies, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the*

Names of acad-
emies.

State of Tennessee, That the following academies shall be deemed and known as the county academies of this State, to wit: in Anderson county, Union academy; in Bledsoe county, LaFayette academy; in Blount county, Porter academy; in Bradley county, Oak Grove academy; in Campbell county, Franklin academy; in Carter county, Duffield academy; in Claiborne county, Speedwell academy; in Cocke county, Anderson academy; in Grainger county, Madison academy; in Greene county, Rhea academy; in Hamilton county, Hamilton male academy; in Hawkins county, M'Minn academy; in Jefferson county, Maury academy; in Johnson county, Pine Grove academy; in Knox county, Hamden Sydney academy; in M'Minn county, Forest Hill academy; in Marion county, Sam Houston academy; in Meigs county, Decatur academy; in Monroe county, Bolivar academy; in Morgan county, Walden academy; in Rhea county, Tennessee academy; in Roane county, Rittenhouse academy; in Polk county, Ocoee academy; in Powell county, Balch academy; in Sevier county, Nancy academy; in Sullivan county, Jefferson academy; in Washington county, Martin academy; in Bedford county, Dickson academy; in Cannon county, Lawrens academy; in Coffee county, Manchester academy; in Davidson county, Robertson academy; in DeKalb county, Fulton academy; in Dickson county, Tracy academy; in Fentress county, Mount Cumberland academy; in Franklin county, Carrick academy; in Giles county, Wirtemburg academy; in Hardin county, Savannah academy; in Hickman county, Centreville academy; in Humphreys county, Rural academy; in Jackson county, Montpelier academy; in Lawrence county, Jackson academy; in Lincoln county, Fayette academy; in Marshall county, Lewisburg academy; in Maury county, Jackson college; in Montgomery county, Clarksville academy; in Overton county, Overton academy; in Robertson county, Liberty academy; in Rutherford county, Bradley academy and Murfreesboro' female academy; in Smith county, Geneva academy; in Stewart county, Dover academy; in Sumner county, Transmontania academy; in Warren county, Carroll academy; in Wayne county, Ashland academy; in White county, Priestly academy; in Williamson county, Harpeth academy; in Wilson county, Campbell academy; in Benton county, Benton academy; in Carroll county, Huntingdon academy; in Dyer county, Dyer academy; in Fayette county, Sommerville academy; in Gibson county, Tren-

ton academy; in Hardeman county, Bolivar academy; in Haywood county, Brownsville male academy; in Henderson county, Lexington academy; in Henry county, Paris academy; in Lauderdale county, Ripley academy; in M'Nairy county, Purdy; male and female academies; in Madison county, Jackson academy; in Obion county, Obion academy; in Perry county, Perryville academy; in Shelby county, Raleigh academy; in Tipton county, ——— academy; in Weakley county, Dresden academy; and in Van Buren county, York academy.

SEC. 2. *Be it enacted*, That the monies required by the ^{Monies:} eighth section, chapter 107, of the act of 1838, to be distributed among the several county academies shall be distributed equally to each county.

SEC. 3. *Be it enacted*, That upon the presentation of an ^{State dues:} order, signed by the president or chairman of the board of trustees of any county academy, to the Comptroller of the Treasury, he shall issue his warrant to the Treasurer of the State for such sum as may be found due to such academy.

SEC. 4. *Be it enacted*, That the amount now in the ^{Distribution:} Treasury for the use of county academies shall be forthwith distributed, and the amounts hereafter to be so set apart shall be distributed as soon as the same shall be placed in the Treasury.

SEC. 5. *Be it enacted*, That all laws requiring a deed of ^{Repeal.} relinquishment from the county academies, be, and the same are hereby repealed, but a receipt for any portion of the academy monies shall be considered as a relinquishment on the part of the academy receiving the same.

SEC. 6. *Be it enacted*, That such of the foregoing acad- ^{Incorporations:} emies as have not heretofore been incorporated, be, and the same are hereby incorporated, to be known by the corporate names respectively set forth in the first section of this act.

SEC. 7. *Be it enacted*, That it shall be the duty of the ^{Duty of county courts.} county courts in those counties where said academies not heretofore incorporated are situated, to appoint five trustees for their respective county academies, who shall have the same rights and privileges, and be governed by the same rules as have been prescribed for the government of the Fulton academy, in DeKalb county, by an act passed January 17th, 1838, entitled an act to incorporate Fulton academy, in DeKalb county.

SEC. 8. *Be it enacted*, That the county courts of the ^{Trustees:} several counties in this State shall, on the first Monday in April next, appoint trustees for their respective county academies, whether the same have been heretofore incorporated or not, who shall hold their offices as trustees under this act, or under their several acts of incorporation, for two years, or till their successors are appointed; and the

said county courts shall at their respective sittings in April, every two years thereafter, appoint trustees as aforesaid for their respective academies.

Repeal.

SEC. 9. *Be it enacted*, That all laws coming within the purview of this act or contrary thereto, be, and the same are hereby repealed.

Explanation.

SEC. 10. *Be it enacted*, That nothing in this act, or in any act heretofore passed incorporating any of the county academies mentioned in the first section of this act, shall be so construed as to prevent the trustees of said academies from being individually liable for such claims as may be due from their respective academies: *Provided*, that no trustee shall be liable who does not contract and agree to the liability.

SEC. 11. That no county academy in this State shall be used as a college, and that in any county in this State, where there is no county academy and where there is a college, it shall be lawful for the trustees of any such college to have and receive the county academy fund for such county to the use of such college: *Provided*, that said fund shall be applied to the academical department of said college.

Vacancy in
board of trustees

SEC. 12. *Be it enacted*, That whenever any vacancy shall occur by the resignation or removal of any of the trustees of any academy of this State, the vacancy shall be filled by the trustees of the said academy.

Repeal.

SEC. 13. *Be it enacted*, That so much of the tenth section of an act passed on the 27th day of January, 1838, entitled an act supplemental to an act to establish the county of Cumberland, as appoints William Bird, Samuel Whitson, David B. Warren, James D. Easley, John G. Easley and Samuel Sebastian, to constitute a body politic and corporate by the name and style of the Centreville academy, in the county of Hickman, be, and the same is hereby repealed.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER CIII.

An Act for the benefit of sheriffs, and to pay the guard necessary in conveying prisoners to jail.

Be it enacted by the General Assembly of the State of Tennessee, That in all criminal causes now pending, or which may hereafter be pending in any of the circuit

courts in this State, where any prisoner or prisoners may have been, or shall hereafter be ordered by the court to be carried to the jail of another county for safe keeping, for want of a sufficient jail in the county where such cause is pending, it shall be lawful for such court to make a reasonable allowance to the sheriff and necessary guard, including expenses, for conveying such prisoners to jail so ordered by the judge aforesaid.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CIV.

An Act to consolidate the funds, and to provide for but one instead of two separate classes of public schools in Lincoln county, in this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That so much of an act passed at Nashville, January 24th, 1838, entitled an act to establish a system of common schools in the State of Tennessee, as provides that the justices' districts in the several counties in this State shall constitute the common school districts in the counties respectively, be, and the same is hereby repealed, so far as the same relates to the county of Lincoln, and that hereafter each township in said county of Lincoln shall constitute and be a common school district. Repeal.

SEC. 2. *Be it enacted,* That the commissioners of school land in the several townships in said county shall also be common school commissioners, and as such, shall do and perform all the duties which shall be required of them by the laws of this State in relation to taking the enumeration and making returns of the number of white children in their respective township districts, and under the common school laws, shall receive from the Superintendent of Public Instruction, and apply the same, all such money as shall from time to time be apportioned and due to said several districts; and the funds so received by said commissioners, together with the monies arising from the rents and profits of the school lands in their respective townships, shall be applied by them to the support of public schools within their several townships according to law. Commissioners.

SEC. 3. *Be it enacted,* That said commissioners shall be elected, qualified and give bond, and in all things be governed by the provisions of an act passed at Nashville, February 19th, 1836, entitled an act to provide for the election Election &c. of Commissioners.

of commissioners for the school lands of Lincoln county, and for other purposes, and shall have, possess and exercise all the rights and powers conferred by said act; and such commissioners elected under the provisions of said act shall continue in office two years, and until their successors shall be elected; and should the time specified in said act for the election of commissioners pass without said election being made, the person or persons therein required to hold such election shall give ten days notice and proceed to hold such election upon such day as he shall designate in his advertisement.

Directory to county court of Lincoln.
SEC. 4. *Be it enacted,* That the county court of Lincoln county shall at any term of said court after the passage of this act appoint five persons, whose duty it shall be to lay off any fraction or fractions in said county, and not included in some township therein, into common school districts of convenient size, and make report to said county court, which report shall be recorded by the clerk thereof; and such districts so laid off shall elect commissioners and be in every respect entitled to all the rights, benefits and emoluments of other common school districts in this State according to law: *Provided,* should any such fraction be too small to constitute a common school district, then said commissioners shall attach the same to the most convenient township, which shall become and constitute a part of such township district to which it may be so attached.

Apportionment of funds in certain cases.
SEC. 5. *Be it enacted,* That in all cases where a township is divided by the county line the commissioners for the school lands in such township shall apportion the funds arising from the school lands in proportion to the minors in each county in said township.

Disagreement of trustees.
SEC. 6. *Be it enacted,* That in all cases of disagreement between the trustees of any sub-division or school district in any of said townships as to their duty or the management of business confided to them, the cause of such disagreement shall be referred to the commissioners of the township, who, together with such trustees, shall settle and determine what course shall be pursued and what policy adopted.

Extension of parts of this act.
SEC. 7. *Be it enacted,* That the first, second, fourth, fifth and sixth sections of this act, be, and the same are hereby extended and enforced in the counties of Monroe, M'Minn, Polk and Bradley.

Township trustees.
SEC. 8. *Be it enacted,* [That] there shall be one trustee appointed in each township in the said counties of Monroe, M'Minn, Polk and Bradley, in the manner and under the rules, regulations and restrictions prescribed in an act entitled an act to appropriate the school lands in the Hiwassee District to the use of schools for the instruction of children therein, passed the 1st November, 1831; and said

trustee shall for his services as trustee as aforesaid, have and receive one hundred dollars per annum out of the rents and profits of the school lands in the township in which he may be trustee as aforesaid.

SEC. 9. *Be it enacted*, That all the provisions of the act recited in the eighth section of this act, not inconsistent with the provision herein contained, be, and the same are hereby declared to be in full force and effect in said counties of Monroe, M'Minn, Polk and Bradley, and the 34th chapter of the acts of 1831 be also in full force and effect in said counties; and that in all the townships in said counties of Monroe, M'Minn, Polk and Bradley within the bounds of the Ocoee district, it shall be lawful in all cases where necessary and proper, in transacting the business of said townships, to use the terms Ocoee District instead of the words Hiwassee District.

Force and effect in other counties.

SEC. 10. *Be it enacted*, That the county courts of the counties of Bedford, Marshall, Franklin, Coffee and Warren, be, and they are hereby authorized, where the same may be practicable, and where said courts shall be satisfied that the same will be for the public good, in all cases where there may be a conflict and interference between the boundaries of the common school districts and the townships containing school lands, to appoint three commissioners, whose duty it shall be to change the conflicting boundaries of said districts so as to constitute a school district, to contain the original townships and fractions of common school districts, and to form one district of the same; and when said commissioners shall have performed said duty, they shall report the same to the county court, and if the same is approved by said court, the same shall be confirmed and ordered to be recorded.

Boundaries of districts in certain cases.

SEC. 11. *Be it enacted*, That in the event of any changes which may be made as aforesaid in the boundaries of school districts, and the same established, all the money belonging to said districts, whether the same shall be derived from rents of school lands or from the common school fund, shall be consolidated into one fund for the common benefit of all the children of the ages provided for by law living in the boundaries of such newly organized districts as aforesaid formed.

Changes of boundaries.

SEC. 12. *Be it enacted*, That hereafter in said last mentioned counties, in all cases where changes in school districts shall be made as is above provided for, the commissioners for such newly organized districts shall be elected at the same time and in the same manner as common school commissioners, and shall have in such cases all the rights and powers as are by law vested in commissioners of school lands and commissioners of common schools: *Provided*, no proceedings as prescribed in the seventh and eighth sections of this act, without due notice to the common school and

Commissioners for new districts.

school land commissioners in the districts and townships interested.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed January 24th, 1840.]

CHAPTER CV.

An Act to secure the State in the trial of criminal causes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That in all cases of prosecutions of felonies, where the grand jury shall make presentment or indictment as a true bill into court, it shall be the duty of the clerk of the court to enter at full said presentment or indictment upon the minutes of the court, a copy of which shall be as good and valid as the original if at any time said presentment or indictment shall be lost, destroyed, misplaced or eloiigned; and for such service the clerk shall have a fee of twenty-five cents, to be taxed in the bill of costs.

SEC. 2. *Be it enacted,* That the judge holding the court shall compare the original bill of indictment and the endorsements thereon with the record before he signs the record of the day's proceedings containing such indictment.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Speaker of the Senate.

Passed January 27th, 1840.]

CHAPTER CVI.

An Act to amend the charter of Aaron Higginbotham's turnpike road across Cumberland mountain.

Amendment. *Be it enacted by the General Assembly of the State of Tennessee,* That the charter of Aaron Higginbotham's turnpike road across Cumberland mountain is hereby so amended that the owner of said road may, if he pleases, collect toll at two gates on said road: *Provided,* only half as much toll is collected in each instance at each gate as is now allowed by law to be collected at one; *and provided also,* that

persons going to or returning from muster, mill, court or preaching shall not be charged toll at either of said gates; *and provided further*, that the gate now erected may be removed by the proprietor one mile east of the Fiery Giz-zard, and no further.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER CVII.

An Act to repeal all laws heretofore passed in this State declaring Wolf river, in the Western District, navigable.

Be it enacted by the General Assembly of the State of Ten- Repeal.
nessee, That all laws heretofore passed by the General As-
sembly of the State of Tennessee declaring Wolf river nav-
igable from its mouth to the rail road bridge at Moscow,
be, and the same are hereby repealed.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER CVIII.

An Act to authorize and require the chancellor of the Western Division to hold a special court in the town of Sommerville.

SECTION 1. *Be it enacted by the General Assembly of the*
State of Tennessee, That the chancellor of the Western di- Chancellor of
western divi-
sion.
vision be authorised and required to hold a special term of
the chancery court in the town of Sommerville, [in the coun-
ty of Fayette, on the first Monday in March next, and shall
have general power and authority to try all causes at said
term as is authorised by law at the regular terms of said
court.

SEC. 2. *Be it further enacted*, That the next circuit court Circuit court for
Benton county.
for the county of Benton shall be held on the second Mon-
day in May next, and all suits in said court pending, all
writs, summons, executions and process of what kind soev-
er issued therefrom or returnable thereto on the first Mon-
day in May next, be, and they are hereby continued over

to the second Monday of May next, and that all process issuing from said court after the passage of this act be made returnable to court the second Monday of May.

SEC. 6. *And be it further enacted*, That this act shall be in force and take effect from and after the passage thereof.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 27th, 1840.]

CHAPTER CIX.

An Act to give the county court the power to elect commissioners on the Obion river, and for other purposes.

County court
to fill vacancies
in board of com-
missioners.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That in case of death, resignation or removal of any one or more of the commissioners for the improvement of the Obion, Forked Deer, Sandy and Hatchie rivers, the county court wherein said vacancy may occur shall appoint others to fill such vacancy.

SEC. 2. *Be it further enacted*, That said commissioners shall lay off the river in lots of not less than one mile nor more than three miles, and let it out to the lowest bidder, and take bond and good security for the performance thereof.

Canals around
mills.

SEC. 3. *Be it further enacted*, That said commissioners shall appropriate five hundred dollars to each mill owner for the purpose of cutting canals around their mills and erecting locks that boats may pass with safety.

SEC. 4. *And be it further enacted*, That this act only applies to mills now on the above rivers.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 27th, 1840.]

CHAPTER CX.

An Act to authorize the citizens of Cocke county to build mill dams across Big Pigeon river, in Cocke county.

Mill dams.

Be it enacted by the General Assembly of the State of Tennessee, That it shall and may be lawful for the citizens of Cocke county to build mill dams across the river Big Pi-

geon, at any point above James R. Allen's: *Provided*, that any person wishing to build, as aforesaid, shall prefer his petition to the county court as in such cases heretofore provided for by acts of Assembly, any law to the contrary notwithstanding.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER CXI.

An Act to amend an act to incorporate the town of Athens, passed 1833.

Be it enacted by the General Assembly of the State of Tennessee, That so much of an act passed in 1833, incorporating the town of Athens, in M'Minn county, as prohibited the corporation from taxing property held or owned by non-residents of said town, be, and the same is hereby repealed. *Repeal.*

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,
Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER CXII.

An Act to authorize the county court of Hamilton county to permit the building of mills in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the county court of Hamilton county be, and they are hereby authorized, a majority of the justices being present and agreeing thereto, to grant to any person or persons the privilege of placing any abutment or abutments or wing dam upon either bank of any navigable water course in said county, for the purpose of erecting any grist or other mill or water works upon such water course, under such rules, restrictions and regulations as they shall think proper: *Provided*, that the erection of any such abutment, wing dam, mill or water works shall not in any wise obstruct the navigation of the water course where such wing dam, abutment or mill or water

works is erected; *and provided further*, that no person shall be allowed to erect any such abutment, wing dam, mill or water works, unless such person be the owner of the bank where he, she or they shall propose to erect such abutment, wing dam, mill or water works; and that this act shall take effect from and after the passage thereof.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER CXIII.

An Act to encourage the manufacture of iron in the Ocoee district.

Entry of vacant
lands.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be lawful for any person or persons who may wish to enter any vacant and unappropriated lands in the Ocoee district, for the purpose of erecting iron works thereon, to make application in writing to the entry taker of said district, specifying the lands intended to be entered by the number of the section, township and range; and thereupon, it shall be the duty of said entry taker to appoint three disinterested persons as commissioners to go upon and value said lands, who, after assessing their value shall make return thereof to said entry taker; and such applicant or applicants shall have the right of entering said lands by sections, as the case may be, at said valuation price: *Provided*, that such applicant or applicants, or some one of them, before he or they shall be permitted to make such entry, shall take an oath that his or their object in entering said land is in good faith for the purpose of erecting iron works and carrying on the manufactory of iron thereon: *Provided further*, that no one person or company shall, under the provisions of this act, enter more than ten sections of land.

Rights of pref-
erence.

SEC. 2. *Be it enacted*, That it shall not be lawful for any person or persons whatever, under the provisions of this act, to make an entry upon any lands held by right of occupancy or preference of entry in the Ocoee district according to existing laws; and if any person or persons shall, under the provisions of this act, enter any land or lands to which another has an occupant right or preference of entry, without the consent in writing of the person or persons having such occupant right or preference of entry, the entry and certificate and grant obtained thereon shall be null and void to all intents and purposes.

SEC. 3. *Be it enacted*, That the person or persons making application to enter lands according to the provisions of the first section of this act, shall have a preference of entry for the lands proposed to be entered for the period of thirty days and no longer from the time of making his or their application to the entry taker.

SEC. 4. *Be it enacted*, That the commissioners appointed to value said land shall for their service be entitled to one dollar and fifty cents each per day, while necessarily engaged in valuing said lands, which shall be paid by the person or persons on whose application they are appointed. Valuation of land.

SEC. 5. *Be it enacted*, That any person or persons who have entered land in this State, for the purpose of erecting iron works thereon, shall have the further time of two years in which to complete said works. Iron works.

SEC. 6. *Be it enacted*, That in case any bill filed in any chancery court in this State, to enjoin the entry of any quarter section or fractional quarter section of land in the Ocoee district, by any person claiming the benefit of the sixth section of an act entitled an act to dispose of the lands in the Ocoee district, passed 29th November, 1837, as a mill occupant thereon, shall, upon the final hearing, be dismissed or such injunction be dissolved, it shall be the duty of the entry taker of said district, after giving thirty days notice in the Athens Courier, to expose any such quarter section or fractional quarter section at public sale to the highest bidder for cash, and the purchaser thereof at sale shall be entitled [to] the entry of any such tract: *Provided always*, that the complainant in any such bill shall, upon the dismissal of the bill or the dissolution of such injunction, be entitled to a preference or priority of entry at seven dollars and fifty cents per acre upon such quarter section or fractional quarter; *and provided further*, that if such tract of land, when sold under the provisions of this act, shall not exceed five dollars per acre, said complainant shall be entitled to a preference of entry at that price: *Provided*, nothing in this act contained shall be so construed as to affect the rights of any claimant to the land so entered or sold; *and provided*, such suit shall be finally determined. Public sales.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 27th, 1840.]

CHAPTER CXIV.

An Act to prevent fraud and imposition in the sale of salt and sugar.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That if any person or persons shall sell in this State any salt or sugar, by the barrel, sack or bag, which, by the marks or brands thereon, purports to contain a certain number of pounds or bushels, but which does not contain the quantity of salt or sugar as branded or marked on such barrel, sack or bag, the person or persons selling said salt or sugar shall forfeit and pay to any person who will sue for the same ten cents for each and every pound of deficiency of such barrel, sack or bag so sold as aforesaid, which penalty may be recoverable before any court having jurisdiction thereof.

Agents. **SEC. 2.** *Be it enacted,* That where any person acts as the agent of any other person in the sale of salt or sugar, in the manner specified in the foregoing section, such agent, as well as the owner of the salt or sugar, shall severally be liable for the penalty therein specified, recoverable in the manner pointed out in the first section of this act: *Provided,* nothing in this act contained shall be so construed as to prevent the sale of salt or sugar by the barrel, bag or sack by the mark or brand thereon if the purchaser is willing to buy by said mark or brand.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER CXV.

An Act granting further time to Samuel B. Mead to complete his road across the Lookout and Racoon mountains.

Further time for completion. *Be it enacted by the General Assembly of the State of Tennessee,* That the further time of twelve months from and after the passage of this act, be, and the same is hereby granted to Saml. B. Mead, in which to complete his road across the Lookout and Racoon mountains, agreeably to the provisions of the law passed 1836, authorising the construction of said road.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER CXVI.

An Act to incorporate the Nashville and White's Creek Springs turnpike company

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That all persons who shall become stockholders pursuant to this act, shall be, and they are hereby constituted a body corporate, by the name of the Nashville and White's Creek Springs turnpike company, and by that name shall have succession for fifty years. White's creek springs turnpike company.

SEC. 2. *Be it enacted,* That the corporation hereby created shall possess all the powers and privileges, and be subjected to all the liabilities which are enjoyed and incurred by the Franklin turnpike company, as prescribed in an act incorporating said company, passed December 31st, 1829, and amended by an act passed December 13th, 1831, except so far as said acts may be inconsistent with this act. Powers and privileges.

SEC. 3. *Be it enacted,* That the capital stock of said company shall not exceed seventy-five thousand dollars, to be divided in shares of fifty dollars each, and Thomas Crutcher, Ephraim H. Foster, Hugh Kirkman, Samuel Seay, John M. Bass, William D. Philips, C. Y. Hooper, J. J. Hinton and D. T. Scott shall be appointed commissioners, or any five of them, who shall open books in Nashville, Tennessee, after giving fifteen days notice in a newspaper printed in Nashville, and receive subscription for stock: *Provided,* the Governor shall not subscribe for any stock in said road. Capital stock.

SEC. 4. *Be it enacted,* That William D. Philips, David B. Love, John McGavock, Ezekiel Cloyd, Gilbert Marshall, Joseph L. Ewing, John T. Hunter, D. T. Scott, C. Y. Hooper and John J. Hinton, or a majority of them, designate the route for said road, commencing at the north end of the Nashville bridge and running the nearest and best route by White's Creek Springs to intersect the Hopkinsville and Springfield road. Route of road.

SEC. 5. *Be it enacted,* That said corporation may establish toll gates, not exceeding four in number, and at such points as the directors may designate, and shall erect a toll gate as soon as they have completed the road five miles from Nashville; and for each additional five miles so soon as completed they shall erect one gate: *Provided,* they shall not place a gate nearer to Nashville than two miles. Toll gates.

SEC. 6. *Be it enacted,* That there be three commissioners appointed for said road by the county court of Davidson county, whose duty it shall be to ascertain and assess any damages claimed by any person or persons through whose land said road may run; but said commissioners, in making their calculation of damages, shall take into view the advantages of said road to said claimant. Commissioners

Directors.

SEC. 7. *Be it enacted*, That the following named persons be, and they are hereby appointed directors of this company until others are elected by the stockholders, to wit: Thomas Crutcher, Ephraim H. Foster, Hugh Kirkman, Samuel Seay, John M. Bass, William D. Philips, C. Y. Hooper, J. J. Hinton and D. T. Scott.

Style of road.

SEC. 8. *Be it enacted*, That said company shall make said road in whole or in part either a M'Adamized or a graded road at their option, and shall at two points, viz: the Ridge and Cloyd's gap, the grade of said road at five degrees.

SEC. 9. *Be it enacted*, That said company shall not in determining the route of said [road,] or in fixing its toll gates, shut up any road now kept open under an order of the county court of Davidson.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 21st, 1840.]

Speaker of the Senate.

CHAPTER CXVII.

An Act for the benefit of certain persons residing on part of Walden's ridge, in Rhea county.

Exempts in
Rhea county.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That all and every person or persons being subject to perform military duty residing between the extreme height of Walden's ridge, in Rhea county, and the county line of Bledsoe county, in the first civil district in Rhea county, be exempt from attending their several regimental musters in said county in time of peace, any law to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That nothing in this act shall be so construed as to exempt any person subject to perform military duty from attending company and battalion musters in said county.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER CXVIII.

An Act to explain an act passed on the 7th November, 1837, conferring additional authority on the commissioners of the town of Perryville, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That so much of said act as releases all the citizens of Perry county from paying ferriage, be, and the same is hereby repealed. Repeal.

SEC. 2. *Be it further enacted*, That said commissioners are authorized to release all persons going to and from court, going to and from mill, and such other persons as may seem to them should be released from paying ferriage. Releases.

SEC. 3. *And be it further enacted*, That said commissioners shall have power to transact such other business as commissioners were authorized and appointed to transact in the year 1824; any thing to the contrary notwithstanding. Powers of commissioners.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER CXIX.

An Act for the relief of Henry Stephens, of Monroe county.

Be it enacted by the General Assembly of the State of Tennessee, That the Treasurer of the State of Tennessee pay to Henry Stephens, of Monroe county, one hundred and four dollars and twenty-five cents, that being the amount paid the State of Tennessee for sixty-seven and one-half acres of lot No. 1, and for one hundred and forty-one acres of lot No. 2, in township No. 1, in range No. 6, east of the meridian in the Hiwassee district, which said parts of said lots were by the said Stephens, as assignee thereof, on the 1st September, 1830, released to the State under the provisions of an act of Assembly, chapter 29, passed 2d November, 1827; and the receipt of said Stephens shall be to the Treasurer a good voucher on settlement. Directions to State Treasurer.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.] *Speaker of the Senate.*

CHAPTER CXX.

An Act to carry into operation the Lunatic Hospital.

Trustees.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Governor of the State shall appoint seven suitable persons to act as trustees of the Lunatic Hospital of Tennessee for the period of two years from and after the passage of this act; and if any of said trustees shall at any time die, resign or refuse to act, the Governor of the State shall fill the vacancy or vacancies thereby occasioned.

Physician.

SEC. 2. *Be it enacted,* That there shall be elected by the trustees of the Lunatic Asylum a physician to the Lunatic Hospital, who shall hold his office for the period of two years, and until his successor is elected; he shall preside as chairman of all meetings of the board of trustees, and shall, under the order of the board of trustees, have a general superintendence over all matters relating to the Lunatic Hospital; he shall visit the patients in the Hospital at least twice in every week, or oftener if necessary; he shall, whenever he may deem it necessary, call extraordinary meetings of the board; he shall report to each Legislature the names and numbers of patients admitted into the Hospital, the date of their admission, the degree and kind of insanity with which they are afflicted, the length of time they were supposed to have been afflicted previous to their admission, their previous occupations, their age and habits, whether married or single, the names and number of those discharged, their situation when discharged, together with such other particulars as may be deemed necessary to the further action of the Legislature thereon.

Meeting of trustees.

SEC. 3. *Be it enacted,* That the board of trustees shall have a regular meeting at the Hospital once in every month, and a majority of the whole board shall in all cases be required to vote an appropriation of money; *Provided,* that said trustees shall make no appropriation of money but such as has been previously appropriated by the existing law to said institution, or such monies as they may receive from private individuals for the keeping insane persons in the Hospital. They shall keep a regular record of all their proceedings, and through their chairman report to each Legislature such regulations as they may have adopted for the government of the institution, and also a detailed statement of their receipts and expenditures.

Regulations.

SEC. 4. *Be it enacted,* That said board of trustees shall have power to make such orders and regulations as may be necessary for the government of their patients in the Hospital, its internal police, the supply of provisions, fuel, wa-

ter, clothing, books, and whatever else may be deemed necessary for the health, comfort, cleanliness and security of the inmates.

SEC. 5. *Be it enacted*, That said board of trustees shall appoint one of their number treasurer of the board, who shall enter into bond, payable to the Governor of the State, with good security, to be approved by the Comptroller, in the sum of ten thousand dollars, conditioned for the faithful performance of his duties as treasurer of the board; he shall receive from the Treasurer of the State such monies as may from time to time be appropriated for the use of the Hospital, and also such monies as may by order of the board of trustees be required for the keeping of patients in the Hospital, as is hereinafter mentioned. The said treasurer shall make annual settlement with the Comptroller of the State, in which settlements the orders of the board of trustees shall be the only vouchers received.

Treasurer of the
board.

SEC. 6. *Be it enacted*, That the board of trustees shall appoint a keeper and matron of the Hospital, who shall reside in the buildings, and give their attention and care to all such orders and regulations touching the Hospital and its inmates as may be made by the board of trustees.

Keeper and
matron:

SEC. 7. *Be it enacted*, That before any insane pauper shall be received into the Hospital, the county court of the county wherein such pauper resides shall transmit to the attending physician or board of trustees a certificate, under the seal of the court, setting forth that after the examination of testimony on which they can rely, the estate of such pauper is not sufficient to support his family and himself, or if he have no family, that it is not sufficient to support himself; upon the receipt of such certificate, such pauper shall be received into the Hospital.

Reception of
paupers.

SEC. 8. *Be it enacted*, That it shall be the duty of the judges of the circuit courts of this State, when the plea of present insanity shall be urged in behalf of any person charged with a criminal offence, to charge the jury that, if from the evidence, they shall believe such persons to be insane, and that it would endanger the peace of the community to let him at liberty, they shall so find; and upon such finding, it shall be the duty of the court to direct an order to the keeper of the Lunatic Hospital to receive and keep such insane persons as other lunatics, which order, together with such insane person, the sheriff of the county shall deliver to the keeper aforesaid: *Provided*, that when it shall be determined by the physician and board of trustees that such patient has recovered from his or her insanity, then he or she shall be delivered to the jailor of the county of Davidson for safe keeping, and notice thereof shall immediately be transmitted by the board of trustees to the clerk of the court before which such person had been arraigned; and

Duty of circuit
judges.

if, at the next term of said court the attorney general shall wish further to prosecute such individual, then, upon notice thereof given to the jailor of said county of Davidson, he shall deliver such prisoner to the jailor of the county where he was in the first instance arraigned; but if the attorney general shall not wish further to prosecute such individual then he shall be discharged.

SERVICES OF SHERIFF. SEC. 9. *Be it enacted*, That the sheriff, for his services as aforesaid, shall be allowed the same compensation, to be paid out of the estate of such lunatic if the same is sufficient, otherwise out of the Treasury of the State, as is allowed for the transportation of convicts to the penitentiary.

RATES PER WEEK. SEC. 10. *Be it enacted*, That the board of trustees of said Hospital shall regulate the rates per week of such insane persons as may be placed under their care by individuals; *Provided*, that the rates shall be paid in advance at the beginning of every six months: they shall establish by proper regulation a bill of fare for such patients as may be in the Hospital at the expense of the State. Patients in the Hospital, at the expense of individuals, may be furnished with any style of living desired; *Provided*, the same shall meet the approbation of the attending physician.

PRIVATE PATIENTS. SEC. 11. *Be it enacted*, That no person shall be received as a private patient into the Hospital except by an order of the attending physician or at least two of the board of trustees.

DISCHARGE OF PATIENTS. SEC. 12. *Be it enacted*, That said board of trustees shall have full power at all times to discharge any of the patients under their charge, except as provided in the eighth section of this act. And it shall be their duty, when the friend of any person supposed to be insane shall offer to place such person in the Hospital, before they shall admit such person to be admitted to enquire into the state of his or her mind; and unless they shall, upon such examination, find the same unsound, such person shall not be received.

OATH OF OFFICERS. SEC. 13. *Be it enacted*, That the attending physician, the keeper and matron of the Hospital, before entering upon the discharge of the duties of their offices, shall take an oath faithfully to discharge the duties of their respective offices, and that they will not enter into any combination to oppress or deprive any person of his or her liberty or civil rights.

PHYSICIAN'S SALARY. SEC. 14. *Be it enacted*, That the attending physician shall receive for his service, from the Treasury of the State, the sum of five hundred dollars annually from the first day of March next until some other order is made at the next regular session of the General Assembly; and the keeper of the Hospital shall receive from the Treasury of the State for his services the sum of five hundred dollars per annum; and the matron four hundred dollars per annum for her ser-

vices: *Provided*, nothing in this act contained shall be so construed as to prevent the friends of any lunatic in said institution from employing any other physician besides the attending physician to wait upon and administer to such lunatic.

SEC. 15. *Be it enacted*, That it shall be the duty of the keeper of the penitentiary to have such work done in the penitentiary; for the use of the Hospital as may be required by the board of trustees and it shall be the duty of the board of trustees of the Lunatic Hospital to purchase of the keeper of the penitentiary all articles that are manufactured at the penitentiary that said trustees may have to purchase for the use of the Lunatic Hospital, and charge the same to the State: *Provided*, the amount received from the penitentiary shall be deducted from the appropriation made in the sixteenth section of this act. Keeper of penitentiary's duty.

SEC. 16. *Be it enacted*, That for the further improvement of the Hospital and the adjacent grounds, and for furnishing the Hospital and the patients therein, the sum of four thousand five hundred dollars is hereby appropriated, to be paid out of any monies in the Treasury: *Provided*, that nothing in this act contained shall be so construed as to authorize or empower the trustees to be appointed as provided in the first section of this act, to receive any other or further liabilities in making improvements in said institution than such as are especially provided for in this act: *and provided also*, that the State shall not be liable for any expenses whatever, except as provided for in this act. Appropriations for Hospital.

SEC. 17. *Be it enacted*, That the Hospital shall be open for the reception of patients on the first day of March next, or earlier if practicable. Opening of Hospital.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 6th, 1840.]

Speaker of the Senate.

CHAPTER CXXI.

An Act to explain an act passed January 17th, 1838, chapter 109.

Be it enacted by the General Assembly of the State of Tennessee, That an act passed January 17th, 1838, chapter 109, entitled an act extending to individuals and corporations who have constructed turnpike roads across the bottoms and swamps in the Western district the rights of occupants on the vacant lands through which turnpikes may have been constructed by law, be so amended that the words "unfit Explanation.

for cultivation," contained in the second section of said act, be substituted for the words "subject to overflow," and that the meaning and intent of the said terms employed in said act which this is intended to amend, be, and the same are hereby construed and explained so as to answer the designation of the terms substituted by this act.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 28th, 1840.]

Speaker of the Senate.

CHAPTER CXXII.

An Act requiring the distribution of the interest of the common school monies of Davidson, Rutherford and Bedford counties.

Commissioners'
Duty.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be the duty of the commissioners of the Nashville, Murfreesboro' and Shelbyville turnpike company immediately to pay into the common school fund of this State all the interest which has accrued from the school fund of the counties of Rutherford, Bedford and Davidson invested in said road, and it shall be the duty of said commissioners annually to pay into said school fund the interest accruing upon said stock.

Superinten-
dent's duty.

SEC. 2. *Be it enacted*, That it shall be the duty of the Superintendent of Public Instruction, in the next apportionment of common school monies, over and above the portions allotted to said counties of Davidson, Rutherford and Bedford, to apportion among said counties, and the districts of new counties formerly belonging to said counties, the interest which may have accrued and been paid into the school fund on their respective funds up to the 19th day of February, 1836: *Provided*, that any interest which may have been paid over for the use of common schools by said turnpike company to any of said counties shall be deducted from the interest due upon the funds of such county.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate,

CHAPTER CXXIII.

An Act to authorize the entry taker of the Ocoee district to correct mistakes and refund money.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be the duty of the entry taker of the Ocoee district to correct mistakes that have been made in the Ocoee district by persons entering land in said district, and to refund to such person the amount of money so paid: *Provided*, that said land intended to be entered by such person or persons has been entered by another person at the same price, and said enterer executing a deed of releasement to the State of his right to said land so entered through mistake. Mistakes of entries.

SEC. 2. *Be it enacted*, That the entry taker shall sell said land so released to the highest bidder, after giving thirty days notice thereof in the Athens Courier: *Provided*, that nothing in this act shall be so construed as to authorize the entry taker to sell any land where there is an occupant right thereon. Sale of released lands.

SEC. 3. *Be it enacted*, That in all cases where any person or persons has made entries in the Ocoee district, contrary to the provisions of the act passed 1837 entitled an act to dispose of the lands in the Ocoee district, and the amendatory act passed at the present session, that it shall be the duty of the entry taker to refund to the enterer the amount of money so paid: *Provided*, said enterer has entered land that the State cannot make a right [to] to said enterer. Unlawful entries.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 22d, 1840.]

Speaker of the Senate.

CHAPTER CXXIV.

An Act to authorize the county court of Blount county to make an allowance to James Glass, former jailor of said county.

Be it enacted by the General Assembly of the State of Tennessee, That the county court of Blount county be and they are hereby authorized and empowered to make an order, if [in] their discretion they shall deem it proper, that the county trustee of said county pay James Glass, former jailor of Blount county, one hundred and thirty [dollars,] out of any monies in his hands not otherwise appropriated, for so

much money advanced by said jailor for the re-capture and surrender to said jailor two felons by the name of Estep, who had broke and escaped from said jail.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXXV.

An Act to amend and explain the law in relation to Notaries Public.

Be it enacted by the General Assembly of the State of Tennessee, That in all cases where there may be any principal or branch bank located in any other place than the county seat of any county, or where the convenience or interest of the people may, in the opinion of the county court so require, it shall be the duty of such court to require one of the notaries public for such county to keep his office at the place where such bank may be located or where the public good may seem to require.

Branch banks.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXXVI.

An Act to extend the charter of the Paint Mountain turnpike company.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That the charter of the Paint Mountain turnpike company, in the county of Greene, shall be extended to William Houston, Sr., James Coulter and Peter J. Davis, proprietors thereof, for the term of one hundred years, and that Andrew Kenedy, Jacob Stephens and Jacob Dyke be, and they are hereby appointed commissioners on said road, also commissioners on the Carrington turnpike road; and that the 4th section of an act passed at the last session of the General Assembly appointing John Neace, Martin Sents and John Runner commissioners on the Carrington turnpike road, be, and the same is hereby repealed.

Extension of
charter.

SEC. 2. Be it enacted, That John Rose may alter or

change the road in any manner he may see proper: *Provided*, ^{Alteration of} he shall not so change the same as to leave Jamestown, ^{toll.} in Fentress county, or alter the places of destination as provided in the charter. And if any person shall pass within one mile of said gate to avoid paying toll by going round the same, such person shall be liable to pay the proprietor ten dollars, to be recovered before a justice of the peace: *Provided*, said Rose shall not erect a gate in Bledsoe county on said road.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 30th, 1840.]

Speaker of the Senate.

CHAPTER CXXVII.

An Act for the relief of certain persons that have entered lands in the Ocoee district that the State cannot make title to.

Be it enacted by the General Assembly of the State of Tennessee, That any person or persons who shall or may have entered as an occupant enterer any land or lands in the Ocoee district, and paid for the same, and the same land or lands have been entered by any other and taken from the first enterer on the ground that the last enterer had the occupant right and not the first, it shall be the duty of the entry taker to refund to the first enterer the money by him so paid where the State cannot make him or them a title thereto. ^{Rights of occupant.}

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXXVIII.

An Act to prevent frauds in entering and selling lands previously appropriated.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall not be lawful for any of the surveyors north and east of the congressional reservation to survey any land for any enterer where the same land has been previously appropriated by entry and grant; and it shall be the duty of such surveyor in all cases to certify up- ^{Surveyors.}

on his plat and certificate that the land contained in the same or any part thereof has not been appropriated previously to his knowledge.

Registers.

SEC. 2. *Be it enacted*, That it shall not be lawful for any of the registers north and east of the congressional reservation line to issue any grant upon any survey, unless the same is certified as directed by this act: *Provided*, this act shall not extend to any survey heretofore made; and if any surveyor or register shall violate this act, it shall be deemed a misdemeanor in office; *provided*, that nothing contained in this act shall be so construed as to prevent the surveyor from surveying any entry previously made, and which entry is not void under the different acts giving further time to have surveys made and obtain grants thereon; *provided*, that this act shall take effect and be in force from and after the first day of May next.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXXIX.

An Act to extend certain privileges to the owners of iron works.

OWNERS OF IRON WORKS. SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the owners of any iron works who have had any lands located and run out under any of the laws heretofore in use and force in this State shall not forfeit the same unless the works shall go out of use for the period of seven years at any one time.

FORFEITURE OF RIGHTS. SEC. 2. *Be it enacted*, That in cases where the owners of iron works have forfeit[ed] their right to the lands for timber, as provided for under the acts heretofore passed to encourage the manufacture of iron, by transferring their rights or permitting said works to be out of use for two years or otherwise, and when such person or company, or their assignees, may have commenced the manufacture of iron, such person or company, or their assignee or assignees, shall have the same privilege and rights to reservation of land for timber as was originally extended to such person or persons.

TAXES IN POWELL COUNTY. SEC. 3. *Be it enacted*, That in case the citizens of Powell county have given all their taxable property and polls for the year 1840 in the counties from which they have been stricken before the organization of said county of Powell, it shall be the duties of the sheriffs of all the

counties from which Powell county has been stricken from to give a release or transfer for the amount of tax so given in to the sheriff of Powell county, and the sheriff of Powell county shall collect the taxes so transferred and pay over the State and county tax as required by the revenue laws of this State.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 28th, 1840.]

Speaker of the Senate.

CHAPTER CXXX.

An Act for the relief of certain purchasers and assignees of purchasers of reservations in the Hiwassee district.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Hon. Charles F. Keith, judge of the third judicial circuit of the State of Tennessee, be, and he is hereby appointed, authorized and empowered to act as commissioner on the part of the State to adjudicate and settle the claims of the original purchasers and assignees of purchasers of the Pathkiller's reservation and James M'Intosh's reservation, in the Hiwassee district. Claims of original purchasers of Pathkiller's reservation.

SEC. 2. *Be it enacted*, That it shall be the duty of said commissioner to make to the purchasers or the assignees of such purchasers, as the case may be, of the reservations aforesaid, or of any part thereof, such reasonable and equitable allowances for their expenses incurred in quieting the Indian title and defending the title of the State to the same as in his judgment shall appear just and proper: *Provided, however*, that nothing in this act shall be so construed as to give said purchasers, or assignees of such purchasers, any advantage or privilege over other purchasers in said district. Duty of commissioner.

SEC. 3. *Be it enacted*, That so soon as settlement and adjustment of said claims shall be made by said commissioner, it shall be his duty to certify the amount that may be by him allowed to each purchaser or assignee of a purchaser as aforesaid, respectively, and to transmit the same by mail forthwith thereafter to the Treasurer of this State; and it shall also be the duty of said commissioner to report the allowances so severally made, together with the reasons and facts by which he may be influenced in making such allowances, to the next General Assembly of this State. Allowance to purchasers.

SEC. 4. *Be it enacted*, That payment of so much of the monies due from each of said purchasers and assignees of purchasers respectively to the State, for the lands by them

severally purchased as aforesaid, as shall be equal to the amounts severally allowed and certified by said commissioners, as provided in the second and third section of this act, shall be and the same is hereby suspended until there shall be further action of the General Assembly thereon; *Provided*, that the allowances so suspended shall not be paid to such purchasers or assignees by the Treasurer unless the same shall be sanctioned and authorized by the next or some subsequent General Assembly of this State.

Treasurer to receive monies. SEC. 5. *Be it enacted*, That the Treasurer of this State shall be, and he is hereby authorized and directed to receive and receipt for any monies that may be due the State from any purchaser or assignee of a purchaser of Indian reservations, or any part thereof, in the Hiwassee district, and such purchasers or assignees shall be and they are hereby allowed nine months from and after the passage of this act to pay any monies not hereby suspended that may be due from them or any of them to the State.

Restrictions, &c. of purchasers. SEC. 6. *Be it enacted*, That upon complying with the provisions of this act, the purchasers and assignees of purchasers of the reservations, or any part thereof, mentioned in the first section of this act, shall be entitled to the same benefits and subject to the same restrictions and forfeitures that other purchasers and assignees of purchasers of lands in the Hiwassee district were entitled and subject to under the first section of the act of 1829, chapter 40: *Provided*, nothing in this act contained shall be so construed as to exempt such purchasers and assignees from the payment of interest on the monies that may be due from them to the State from and after the expiration of one year after the determination of the suits against them by said reserves.

Grants. SEC. 7. *Be it enacted*, That when any purchaser or assignee of a purchaser of any land in the Hiwassee district shall produce to the register of said district a receipt for the payment in full of all the money that may be due from such purchaser or assignee to the State for his or her land so purchased, it shall be the duty of the register to issue to him, her or them, as the case may be, a grant for the same.

Comptroller's duty. SEC. 8. *Be it enacted*, That the Comptroller of the Treasury shall proceed, after nine months from the passage of this act, to collect by suit or otherwise all sums and balances not herein suspended that may be due the State from the purchasers or assignees of purchasers of any Hiwassee lands.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 29th, 1840.]

CHAPTER CXXXI.

An Act to amend the law in relation to executors and administrators.

Be it enacted by the General Assembly of the State of Tennessee, That the act of 1809, chapter 121, and all laws authorizing foreign executors and administrators to commence and prosecute in this State, be, and the same are hereby repealed: *Provided,* that when any suit or suits shall be commenced or pending before this act goes into effect the same shall not abate on that account, but may be revived in the name of the executor or administrator that may be appointed in this State; and all final judgments or decrees had before this act goes into effect shall be extended as though this act had never been passed. Repeal,

JONAS E. THOMAS,

Speaker of the House of Representatives,

L. H. COE,

Passed January 28th, 1840.] *Speaker of the Senate.*

CHAPTER CXXXII.

An Act to confer certain privileges on the commissioners of the town of Dyersburg.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That it shall and may be lawful for the commissioners of the town of Dyersburg to lay off the commons of said town into lots and sell the same; *Provided,* they think the interest of the town and county require it to be done. Sale of lots,

SEC. 2. *Be it further enacted,* That said commissioners shall and may have power to sell out and close up the alleys of said town by a written permission from all those owning a lot or lots adjoining the same. Alleys.

JONAS E. THOMAS,

Speaker of the House of Representatives,

L. H. COE,

Passed January 28th, 1840.] *Speaker of the Senate.*

CHAPTER CXXXIII.

An Act to refund to Brice A. Collins twenty-six dollars and fifty cents.

Appropriation. *Be it enacted by the General Assembly of the State of Tennessee,* That twenty-six dollars and fifty cents is hereby appropriated to Brice A. Collins out of the common school fund in this State, and the Superintendent of said fund is hereby directed to pay over to the said Brice A. Collins the same out of the monies of said common school fund.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER CXXXIV.

An Act authorizing the extension of streets, alleys and margins in towns in certain cases.

'Enlargement of limits. *SECTION 1. Be it enacted by the General Assembly of the State of Tennessee,* That it shall be lawful for the mayor and aldermen of any incorporated town in this State when the limits of said town has been or may hereafter be enlarged by law, when the necessary streets, alleys and margins have not been established, on the application of any number of freeholders of said town, if they deem the same necessary, to cause it to be done.

Opening streets. *SEC. 2. Be it enacted,* That when the opening of any such streets, alleys or margins shall be of public utility, the same shall be done at the expense of the corporation, but should the same be done for individual convenience, in all such cases the expense shall be paid by the individual or individuals making the application.

Damages. *SEC. 3. Be it enacted,* That when the owner or owners of the land through which it may be necessary to extend a street, alley or margin, under the provisions of this act, shall require damages for the same, in every suit it shall be the duty of the mayor and aldermen of said town to appoint a jury, not exceeding seven freeholders, who, after first being sworn, shall examine the premises and assess the damages the opening of such street, alley or margin is to said owner or applicant, and report the same to the mayor and aldermen, who shall have the same recorded by the recorder of said board; and on the payment of the damages aforesaid into the office of the recorder for the benefit of

such owner, the mayor and aldermen shall have power to order the said street or streets, alley or alleys, margin or margins (as the case may be) to be opened, first allowing a reasonable time therefor to the owner.

SEC. 4. *Be it enacted*, That when any person or persons shall fail or refuse to open any street, alley or margin ordered to be opened under the provisions of this act, such person or persons shall be subject to a fine of five dollars for every month of such neglect or failure, recoverable by warrant before any justice of the peace for the county in which such person may reside; which fine shall be paid to the recorder of the board of aldermen for the use of the corporation. Refusal to open street.

SEC. 5. *Be it enacted*, That all juries appointed under the provisions of this act to assess damages shall, when assessing the same, take into consideration the convenience and advantage the opening said street, alley or margin will be to the person claiming damages, and may assess their damages accordingly. Assessment of damages.

SEC. 6. *Be it enacted*, That any person being aggrieved under the provisions of this act shall have a right of appeal to the circuit court in the same manner as other appeals are granted. Right of appeal.

SEC. 7. *Be it enacted*, That Wm. D. Rankin, James Dawson, Spencer Henry, John Stewart and John F. Stanberry are appointed commissioners for the town of Newport, in Cocke county, and shall have power to lay off or alter the streets of the town whenever the convenience of the citizens require, to re-survey and mark out the lines between any of the lots that have not been marked or where the marks or corners have been destroyed, and shall be authorized to employ a competent surveyor to run out the lines correctly; and when the surveyor shall have surveyed the same, it shall be his duty, to make out a complete and correct plat of said town, plainly setting forth in said plan the streets and alleys, and the number by which each lot is or shall be known, and deliver the same, when completed, to the commissioner, which shall be then filed in the office of the clerk of the county court. Commissioners for Newport.

SEC. 8. *Be it enacted*, That when a complete plan of the town shall be made and filed in the office of the clerk of the county court it shall be the duty of the county court to make some allowance to the surveyor for his services, which shall be paid out of the county revenue. Pay of surveyor.

SEC. 9. *Be it enacted*, That no corporation in this State shall have the power to tax any office or shop as a privilege or in any other mode different from the principle prescribed in the constitution.

SEC. 10. That the corporate limits of the town of Clarksville shall be as follows: commencing on the line of the Limits of Clarksville.

south boundary of the town of Clarksville on the Cumberland river, as heretofore established, running east with Roberts' line to the corner of Roberts' addition to the town of Clarksville, and from thence to Elder's spring, to include the same; thence north-eastwardly to a point in the Nashville road, so as to include the residence of Eli Lockert; thence north so as to include the lots and houses now occupied by Jesse Harrison, Mr. George B. Wilson, to a point in the old Russellville road, where the turnpike road leaves the same; thence west of north to the north-east boundary of said corporation as heretofore established; and from thence north-eastwardly in a straight line to Red River bridge; and from thence down Red river to the mouth of said river; and from thence up the Cumberland river at low water mark with its meanders to the beginning.

Powers of al-
dermen. **Sec. 11.** *Be it enacted*, That the mayor and aldermen of said town of Clarksville shall have power and authority to regulate the police of said town as herein defined and extended, assess taxes and enforce the collection of the same in accordance with existing laws of this State; and the same powers, rights and privileges shall attach to the residence herein included as are given in the several laws of this State incorporating the town of Clarksville: *Provided*, that nothing herein contained shall authorize the mayor and aldermen to impose any tax upon land or lots herein included used for farming purposes.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXXXV.

An Act authorizing the county court of Lincoln county to grant the privilege of building mills and factories in certain cases.

Erection of
mills. **SECTION 1.** *Be it enacted by the General Assembly of the State of Tennessee*, That whenever any person may desire to erect a grist and saw mill, or either or any other kind or description of machinery for manufacturing purposes, on any navigable stream in Lincoln county, such person shall give twenty days public notice by advertisement at the court-house door of said county of his or their intention to make application to the county court for such privilege; and upon making such application by petition, if the court should be of opinion that the privilege ought to be granted, and that the erection of the proposed mill or factory will be of pub-

lic utility, said court are hereby authorized to appoint three discreet and disinterested citizens of said county as commissioners, who shall examine the premises on which the mill or factory is proposed to be erected, and ascertain whether the same can be erected without injury to the navigation, and how high and of what description it would be safe to build the dam, and make report to the next or any subsequent quarterly court of said county; upon coming in of the report of the commissioners, if the same should satisfy the court that the navigation of the stream would not be injured, they may grant the privilege applied for, a majority of all the justices of said court concurring and voting therefor, and shall have all the proceedings had thereon entered on record: *Provided*, that the person building such mill or factory shall conform to the report of the commissioners in the erection of the dam.

SEC. 2. The commissioners appointed to examine the premises and make report shall be entitled to two dollars each for each day they shall be engaged in the aforesaid business, and the clerk of the county court shall be entitled to one dollar for receiving and recording the petition and one dollar for receiving and recording the report of the commissioners, all of which shall be paid by the person applying for such privilege: *Provided*, that nothing in this act shall be so construed as to authorize the county court to obstruct the main channel of any river that has been declared navigable by law. Pay of commissioners.

SEC. 3. That the act passed January 26th, 1838, entitled an act to establish a board of commissioners for the improvement of the navigation of the rivers in Tennessee east of Knoxville, be, and the same is hereby so amended that Elijah Embree, James Moore, Clark Kirwood, John W. Moser, James Jones and John Brabson be, and they are hereby added to and made to constitute a part of said board of commissioners. Increase of commissioners.

SEC. 4. That it shall not be lawful for any person or persons to remove any mill dam that is now built on Lick creek, or may hereafter be built on said creek, in the county of Greene, without the consent of the owners thereof. Dams on Lick creek.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 30th, 1840.]

CHAPTER CXXXVI.

An Act to abolish the Mayor's court of the city of Nashville.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That it shall be the duty of the judges of the sixth and seventh judicial circuits to hold each one special term in each year of the circuit court for the county of Davidson, in an order of rotation to be agreed on by said judges themselves, for the trial of criminal causes and for the transaction of other criminal business, or for criminal and civil business as they may think best, which special courts shall in all other respects not herein otherwise ordered be held under the same rules, regulations and restrictions, and with the same powers that other special terms are now directed by law to be holden; and whenever a judge shall direct a special term to be holden as aforesaid, he shall take the recognizances of such persons as are intended to be tried at such special term to appear accordingly, and in like manner all recognizances that may be taken out of court may bind the parties to appear at such term of the court: *Provided,* that any recognizance or precept, binding a party to appear at a regular term, shall be good and the case shall stand for trial at such regular term; and such special term may be held by any circuit judge in the State in the same manner as regular terms can be held by such judge.

SEC. 2. *Be it enacted,* That no mesne or final process in any civil case shall be made returnable to such special term, but process of subpoena, and all other process to prepare a case for trial, may be issued to such special term; all State cases shall stand for trial the first special term at which the presentment may be made or indictment found in the same manner as if it were a regular term.

SEC. 3. *Be it enacted,* That all laws empowering the corporate authorities of Nashville to hold a mayor's court be, and the same are hereby repealed, and the recorder of said town or keeper of the records and papers of said court is hereby required to deliver them over to the clerk of the circuit court of Davidson county, to be safely kept by him, with the same power over them that belongs to said recorder.

SEC. 4. *Be it enacted,* That all persons entitled under the constitution to vote for members of the General Assembly shall, if they have been resident within the corporate limits of the town of Nashville for six months next before the day of election, be entitled to vote for all officers of said corporation, and no person shall be required to pay a tax before he is entitled to vote.

SEC. 5. *Be it enacted,* That the clerk of the county court

Special terms of
judicial circuit.

Character of
special term.

Abolishment of
mayor's court at
Nashville.

Voters in Nash-
ville.

of the county of Hamilton be, and he is hereby authorized to appoint a deputy clerk, who shall reside in Chattanooga, and whose certificate of the probate of deeds and other instruments before him, and the issuing marriage licenses, shall in all respects be as valid in law as though the same had been done by the principal clerk of the county court.

Deputy clerk of
county court of
Hamilton.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXXXVII.

An Act to incorporate the Memphis Manufacturing company, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the following persons, to wit: John Pope, A. R. Govan, W. W. Tucker, L. C. Trezevant, S. G. Dunn, A. Trigg, Benjamin Wright, E. H. Porter, Solomon Rosell, William A. Kerr, Carpenter & Fisher, Buckley Kimbrough, A. Walker and John D. White, and their successors and assigns, be, and they are hereby incorporated and made a body politic by the name and style of the Memphis Manufacturing company, with full power and authority by that name and style to sue and be sued, plead and be impleaded, answer and be answered unto in any court of law or equity in this State, and to have and use a corporate seal, and the same to break alter or change at their pleasure.

Body politic.

SEC. 2. *Be it enacted,* That the capital stock of said company may be one hundred thousand dollars, in shares of one hundred dollars each; but as the above incorporated persons have already subscribed and appropriated the sum of ten thousand dollars to the erection of a foundry and finishing shop in the town of Memphis, with a view of carrying on the business of constructing and manufacturing all kinds of machinery, the said company may continue to conduct their said business under their charter with their present capital until the same shall be increased as hereinafter provided.

Capital stock.

SEC. 3. *Be it enacted,* That the stockholders of said company shall elect annually five directors, who shall choose one of their number to be president; the officers shall hold their places until their successors are elected; the first election shall be in Memphis on the first Tuesday in March, 1840; the president and directors shall have power to make

Directors.

any by-laws for the regulation and government of the company and for the management of their business not inconsistent with the laws of this State or of the United States.

SEC. 4. *Be it enacted,* That the company aforesaid shall have power to purchase and hold, to sell and convey or exchange all such property, real or personal, as may be necessary, convenient or useful in carrying on the aforesaid business of manufacturing and constructing all kinds of machinery, or in applying such machinery to any useful purpose; the said company may also take, receive and hold such other property, real and personal, as they may find it necessary or convenient to take as security for any debts which in the course of their business may be due to them.

SEC. 5. *Be it enacted,* That the president and directors aforesaid shall have power to open books in the town of Memphis and elsewhere for the subscription of such amount of stock as they may from time to time think expedient in extending their business, but the whole amount of stock shall never exceed one hundred thousand dollars at any time; when books are opened under this provision, notice shall be given in the public newspapers specifying the amount of stock required, the time and place when and where the subscriptions shall be received, and in what manner the same shall be paid, and the books shall be accessible to all persons who may choose to subscribe; the president and directors shall have the right to declare the stock of any subscriber forfeited to the company who may fail to pay according to the terms of his subscription.

SEC. 6. *Be it enacted,* That the stockholders who may hereafter subscribe for the stock of said company, as contemplated in the foregoing section, shall be a component part of the same, and shall enjoy all the rights, privileges and powers herein and hereby conferred upon them.

SEC. 7. *Be it enacted,* That James Rose, L. C. Trezevant, Thomas Dixon, C. Stewart, James Rembert, C. J. Nelson, Fountain M'Gehe, Britin Duke and C. D. M'Lean, be, and they are hereby appointed commissioners under the directions of a majority of whom subscriptions may be received to the capital stock of the Planters Flour and Grain company hereby incorporated; and they or a majority of them may cause books to be opened at such times and places as they may direct for the purpose of receiving subscriptions to the capital stock of [the] company,

SEC. 8. *Be it enacted,* That the capital stock shall be ten thousand dollars, with the privilege of increasing said capital stock to one hundred thousand dollars, which shall be divided into shares of one hundred dollars each; so soon as fifty shares are subscribed of said stock, the subscribers of said stock are hereby declared to be incorporated into a com-

pany and body politic by the name of Planters Flour and Grain company.

SEC. 9. *Be it enacted*, That said company shall be under the same rules and laws provided for in the Fosterville Steam Mill company charter, passed January 26th, 1838. Rules and laws.

SEC. 10. *Be it enacted*, That the following persons, to wit: J. Yeatman, A. S. Caldwell, J. B. Knowles, B. S. Brown, James Walker, M. M. Monohan, Geo. W. Martin, Seth C. Earl, John D. Goss and J. V. D. Stout, and their successors and assigns, be, and they are hereby incorporated and made a body politic by the name and style of the Arkwright Manufacturing company, with full power and authority by that name and style to sue and be sued, plead and be impleaded, answer and be answered unto in any court of law or equity in this State, and to have and use a corporate seal, and the same to break, alter or change at their pleasure. Arkwright manufacturing company.

SEC. 11. *Be it enacted*, That the capital stock of said company may be two hundred thousand dollars, in shares of one hundred dollars each. Capital stock.

SEC. 12. *Be it enacted*, That the stockholders of said company shall elect annually five directors, who shall choose one of their number to be president; the officers of the company shall hold their places until their successors are elected; the first election shall be held in Nashville on the first of May, in the year 1840; the president and directors shall have power to make any by-laws for the regulation and government of the company, and for the management of their business, not inconsistent with the laws of this State or of the United States. Stockholders.

SEC. 13. *Be it enacted*, That the company aforesaid shall have power to purchase and hold, to sell and convey or exchange all such property, real or personal, as may be necessary, convenient or useful in carrying on the business of manufacturing cotton and other articles; the said company may also take, receive and hold such other property, real and personal, as they may find it necessary or convenient to take as security for any debts which in the course of their business may be due to them. Powers of company.

SEC. 14. *Be it enacted*, That the president and directors aforesaid shall have power to open books in the town of Nashville and elsewhere for the subscription of such amount of stock as they may from time to time think expedient in extending their business, but the whole amount of stock shall never exceed two hundred thousand dollars; and at any time when books are opened under this provision, notice shall be given in the public newspapers specifying the amount of stock required, the time and place when and where the subscriptions will be received, and in what manner the same shall be paid, and the books be accessible to all Opening of books.

persons who may choose to subscribe: the president and directors shall have the right to declare the stock of any subscriber forfeited to the company who may fail to pay according to the terms of his subscription.

Stockholders. SEC. 15. *Be it enacted*, That the stockholders who may hereafter subscribe for the stock of said company, as contemplated in the foregoing section of this act, shall be a component part of the same, and shall enjoy all the rights, privileges and powers herein and hereby conferred upon the persons mentioned in this act.

Restrictions. SEC. 16. *Be it enacted*, That said company shall be subject to all the restrictions imposed by this act on the Memphis Manufacturing company.

Reservation. SEC. 17. *Be it enacted*, That the General Assembly reserves to itself and all future Legislatures the right to alter, amend or revoke and annul the charters of incorporation hereby granted whenever in the opinion of the General Assembly the public good may require it.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 27th, 1840.]

Speaker of the Senate.

CHAPTER CXXXVIII.

An Act to appropriate the school lands in the Ocoee district, in the counties of Meigs, Hamilton and Marion, to the use of schools for the instruction of children therein.

District clerks. SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the clerk of the common school district in which lies the chief part of the arable land of any school section in the Ocoee district, in the counties of Meigs, Hamilton and Marion, shall have the management of the whole section, and shall rent the school land from year to year or for a longer period, not exceeding five years, when it may be necessary, for the erection of water works or other valuable improvements, or for the purpose of improving said land by cultivating the same in small grain. He shall bind the lessees to pursue such a course of husbandry as will in his judgment be best calculated to preserve said lands and improve their quality, to keep the fences, buildings and other improvements thereon in good repair, and to abstain from all unnecessary waste, only using so much of the timber growing on said land as may be necessary for the purposes of good husbandry.

SEC. 2. Said clerk shall collect the rents as they annu-


ally arise, for which purpose he may maintain any action Rents, &c.
and shall have the lien allowed by law to landlords.

SEC. 3. Said rents shall be apportioned among the com- Apportionment
missioners of the common school districts, including the of rents.
township to which the school section belongs, in propor-
tion to the scholastic population of the township who may
attend the common school under the management of said
commissioners respectively; and said rents shall be paid in
said proportion by the clerk to the order of said commis-
sioners either in kind or cash as they may prefer.

SEC. 4. Said clerk shall keep a regular account of said Accounts.
rents, in which he shall debit himself with said rents or the
proceeds thereof and credit himself with the disbursements
thereof; which account he shall exhibit, whenever required,
to the commissioners or any commissioner of the school or
schools to which they shall be payable.

SEC. 5. Should the clerk fail or refuse to pay and de- Removal for in-
liver the rents, in manner aforesaid, he may be removed efficiency.
from office by his own board of commissioners and be sued
for the unpaid rents by the commissioners who have the
right to demand the same.

SEC. 6. For his services in the premises said clerk shall Clerk's pay.
and may retain out of the rents six per cent. of the whole
value thereof.

SEC. 7. Actions of ejectment for the recovery of school 
lands may be brought in the name of John Den, lessee of Actions of eject-
the State of Tennessee, as plaintiff, against the person ment.
holding possession, and the clerk of the circuit court shall
issue writs for such purpose at the instance of the attorney
general of any district wherein school lands are situated,
or any one of the commissioners thereof, without requiring
security for costs; and the said attorney general shall attend
to such suit in behalf of the plaintiff. If the plaintiff re-
cover in said suit a fee of twenty dollars shall be taxed to
the attorney general in the bill of costs, but if the plaintiff
be cast there shall be no judgment for cost.

SEC. 8. That to any action of ejectment that may be
brought against any tenant of school land in said counties
holding under leases made in pursuance of law, the State of
Tennessee shall be made defendant in the room and stead
of such tenant, on motion of the attorney general, at any
time during the pendency of such suit, without affidavit or
security for costs, and if the State be cast in such action no
costs shall be adjudged against her.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 29th, 1840.]

CHAPTER CXXXIX.

An Act to provide for the collection of demands due the State or due the Bank of Tennessee, or other demands in which the State has an interest.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That when any demand or right of action shall accrue to the State of Tennessee, or to the Governor of the State, or to the Bank of Tennessee, except bills or notes discounted by said Bank, or to the person or corporation entitled to the custody or possession of the common school fund, or any other demand or right of action shall accrue in which the State shall have an interest, it shall be the duty of the Governor, Comptroller of the Treasury, or Bank of Tennessee, as the case may be, to give information thereof to the attorney general of the district in which the person against whom such demand or right of action has accrued, or any of them, may reside, together with all evidence within their possession or knowledge in support of such demand or right of action; and it shall be the duty of the attorney general to whom such information may be given to commence and prosecute any suit or suits for the recovery of such demand, and no security for cost shall be required in such case; and when such case shall be taken by appeal or writ of error to the supreme court it shall be the duty of the attorney general of the State to attend to the same.

SEC. 2. That it shall be the duty of the attorney general *as aforesaid* to prosecute suits in equity as well as at law for the recovery of the demands aforesaid, and also for the prevention of mischief and the preservation of the rights and interest of the State and the common school fund, and the judges shall be authorized to grant writs of *ne exede*t, injunction, attachments, and all other extraordinary process without security being required as in other cases.

SEC. 3. That the cost in all the foregoing cases shall be paid as the court shall adjudge; and if judgment be given against the State, the same shall be paid by the Bank of Tennessee if the Bank is a party; or out of the common school fund if the suit is on account of that fund, to be paid by the officer or corporation having the custody thereof; or out of the Treasury of the State, upon the warrant of the Comptroller, if the Governor or State is a party.

SEC. 4. That this act shall apply to all demands and rights of action which have heretofore accrued as well as those which shall hereafter accrue.

SEC. 5. *Be it enacted,* That all laws and parts of laws which may be construed to authorize the Bank of Tennessee to sue for any part or portion of the monies belonging

to the school fund be and the same are hereby repealed: *Provided, always*, that this act shall not be construed to apply to the regular and legitimate business of said Bank upon the school monies.

SEC. 6. *Be it enacted*, That the State of Tennessee shall be and is hereby authorized to commence and prosecute suits for all causes of action accrued or accruing to the State in all of the courts of the State according to the laws of the land as in other cases, and that the State shall have the power to prosecute suits for any cause of action accrued or accruing to the State from any individual or association of individuals who have assumed the name and powers of a corporation or having acted as a corporate body, the same not being a corporation by the laws of this State.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 28th, 1840.]

Speaker of the Senate.

CHAPTER CXL.

An Act to change the time of holding the circuit courts for the counties of Carroll, Benton, Perry, Hardin, Wayne and Lawrence.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That from and after the first day of January, in the year one thousand eight hundred and forty, the circuit courts for the county of Carroll [shall be held] on the first Mondays of January, May and September; for the county of Benton on the second Mondays of January, May and September; for the county of Perry on the third Mondays of January, May and September; for the county of Hardin, on the fourth Mondays of January, May and September; for the county of Wayne on the first Mondays of February, June and October; for the county of Lawrence on the second Mondays of February, June and October.

SEC. 2. *Be it further enacted*, That the circuit courts for the county of Marshall shall hereafter be held on the 4th Mondays of January, May and September.

SEC. 3. *Be it further enacted*, That the first circuit courts to be holden in each of the aforesaid counties after the passage of this act shall be holden at the times heretofore provided for by law, and that all subsequent terms thereof shall be holden at the times hereinbefore prescribed.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 6th, 1840.]

Speaker of the Senate.

CHAPTER CXLI.

An Act to incorporate Sommerville College, in the county of Fayette.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee, and it is hereby enacted by the same,* That, for the purpose of promoting education, John B. Ayers, A. J. Spirey, Edward H. Whitfield, John Bell, Champ C. Conner, William Warren, Joel L. Jones, John L. Townes, Nathaniel G. Smith, William Buckhannon, R. T. Daniel, Hardy W. Sharp, Amos Jarman, Joseph B. Outlaw, Jonas Wood, Joseph Lane, H. Owen, William Ragan, William Leigh, John D. Johnson, Alfred Millikin, or such or so many of them as shall within six months from the date hereof accept of this trust, and their successors, shall be forever thereafter one body corporate and politic, to be known in law by the name of Sommerville College, the trustees at any time hereafter giving such more particular name to the College in honor of the greatest and most distinguished benefactor, or otherwise, as they shall think proper, which name so given shall in all acts, instruments and doings of said body politic be superadded to their corporate name aforesaid, and become a part of their legal appellation by which it shall be forever known and distinguished.

SEC. 2. *And be it further enacted,* That the said trustees and their successors, to be chosen as hereinafter prescribed, shall be known by said name forever, and shall and may be personable and capable in law to sue and be sued, to plead and be impleaded, to answer and be answered unto, to defend and to be defended against, in all and singular suits, causes, matters, actions and doings of what kind soever.

SEC. 3. *Be it further enacted,* That said trustees and their successors shall have full power and authority to have, take, possess, purchase, acquire, or otherwise receive and hold land, tenements, hereditaments, goods, chattels and other estates, all of which they may and shall stand and be seized of notwithstanding any misnomer of the College or corporation thereof, and by whatever name or however imperfectly the same shall be described in gift, bequest and assignment; *Provided,* the true intent of the assigner or benefactor be evident: also the same to grant, demise, alien, lease, use, manage and improve according to the tenor of the donation, and to the purposes, trusts and uses to which they shall be seized thereof; and full power and authority is hereby granted unto the said trustees and their successors to found the said College at Sommerville, in Fayette county, for the promotion of the liberal arts and

sciences and universal literature, and with the monies, estates and revenues of which they shall from time to time become legally possessed and seized as aforesaid to endow the same, and erect the necessary buildings and edifices thereof on such plan as they shall think convenient, and generally to regulate, order and govern the same, appoint officers, and make laws as hereinafter prescribed, and hold, use and enjoy all the liberties, privileges, exemptions, dignities and immunities enjoyed by any College or University in this State.

SEC. 4. *Be it further enacted*, That the said trustees and their successors shall and may forever hereafter have a public seal to use for all causes, matters and affairs whatever of them and their successors, and the same to alter, make or break anew, which seal shall always be deposited with the president of the faculty or the chairman of the board of trustees, who shall be elected as hereinafter prescribed.

Public seal.

SEC. 5. *Be it further enacted*, That the corporation of said College shall consist of the board of trustees and the president of the faculty; that the number of trustees shall and may be twenty-one, one-third of whom shall go out of office every two years, but shall be eligible to a re-election in the manner hereinafter prescribed; and that the said John B. Ayers, A. J. Spirey, Edmund H. Whitfield, John Bell, Champ C. Conner, William Warren, Joel L. Jones, John L. Townes, Nathaniel G. Smith, William Buckhannon, R. T. Daniel, Hardy W. Tharp, Amos Jarman, Joseph B. Outlaw, Jonas Wood, Joseph Lane, H. Owen, William Ragan, William Leigh, John D. Johnson, Alfred Milliken, or such or so many of them as shall accept the trust reposed in them as aforesaid, shall be, and they are hereby declared and established the first and present trustees.

Officers of corporation.

SEC. 6. *Be it further enacted*, That the power to transact all the business connected with the College be, and it is hereby vested in the board of trustees, except in adjudging and conferring academical degrees, the instruction and immediate government of the College, which shall ever belong exclusively to the president and faculty of said College.

Powers.

SEC. 7. *Be it further enacted*, That the vacancies which may occur by limitation, death or resignation, removal or otherwise in the board of trustees shall be filled by an election of their own body at any annual meeting.

Vacancies.

SEC. 8. *Be it further enacted*, That on the first day of April, 1840, or as soon thereafter as may be practicable, there shall be a general meeting of said corporation at Somerville, and there shall be a regular meeting of said corporation annually at the time of the commencement of said College to be hereafter appointed by the president and faculty; and that the chairman of the board of trustees, or

General meeting.

such presiding officer as they may appoint, shall on special emergencies have power to call a meeting of said corporation by giving thirty days notice, and that in all meetings a major vote of those present shall be deemed a majority as aforesaid: *Provided*, that not less than seven trustees shall be a quorum for transacting business.

Elections.

SEC. 9. *Be it further enacted*, That this corporation at any of its meetings regularly convened as aforesaid, shall and may elect, upon their own and other nomination, the president, professors and tutors, and all such other officers as are usually appointed in Colleges or Universities.

President

SEC. 10. *Be it further enacted*, That the president of the College, when elected by the board of trustees as herein directed, shall be, and he is hereby declared *ex officio* a member of said board of trustees.

Privileges
of president and
faculty.

SEC. 11. *Be it further enacted*, That the president and faculty of said College shall have privilege and power of conferring the usual degrees conferred by any of the Colleges or Universities of this State, and to grant under their corporate seal diplomas or certificates of such degrees, to be signed by the president and witnessed by all the professors of said College.

Chairman of
trustees.

SEC. 12. *Be it further enacted*, That at their first meeting, as herein prescribed, the trustees shall appoint by ballot a chairman from their own body, who shall hold his office for the space of two years, the first chairman going out of office at the second annual meeting of the board; the vacancy of chairman either by death, removal or otherwise to be filled at the next meeting after the occurrence from their own body.

Secretary.

SEC. 13. *Be it further enacted*, That the board of trustees shall at their first meeting herein prescribed appoint by ballot a secretary, whose term of office shall expire with the chairman's, and whose vacancy shall be supplied in the same way as the chairman's.

Vacation of the
chair.

SEC. 14. *Be it further enacted*, That in the event of the death, removal or resignation of the chairman of the board of trustees; it shall be the duty of the secretary to call a meeting of the board, by giving thirty days notice, for the purpose of filling such vacancy and transacting any other business.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 28th, 1840.]

Speaker of the Senate.

CHAPTER CXLII.

An Act to explain and make more plain the first and second sections of an act passed the 9th day of February, 1836, entitled an act to provide for the appointment of a collector of the revenue, and to define his duties.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the first and second sections of said act which require bonds to be executed by sheriffs and their securities for the proper collection and payment of the State and county revenue, shall be construed to require said bonds to be given hereafter every year. Sheriff's bonds.

SEC. 2. *Be it further enacted,* That it shall be the duty of the county court clerks, on the first Monday in April, in each and every year, to call on said collectors to renew their bonds as required by this act. Duty of county court clerk.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 28th, 1840.]

Speaker of the Senate.

CHAPTER CXLIII.

An Act to authorize the county trustees of the counties of Bedford, Rutherford and Davidson to receive such monies as said counties may respectively be entitled to upon the internal improvement fund of said counties invested in the capital stock of the Nashville, Murfreesboro' and Shelbyville turnpike.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That for said purposes, as follows, the county trustees of said counties respectively shall demand and receive from said company, or from any officer to whom the same may have been paid, any monies to which each of said counties may respectively be entitled under existing laws. Trustees shall receive monies.

SEC. 2. Said county trustees of said counties of Davidson, Rutherford and Bedford respectively shall apportion said monies when received by them amongst the several school districts in each of their said counties, and the fractions of said counties now composing parts of Cannon, Coffee and Marshall, according to the scholastic population in each district, and they shall dispose of said monies in the manner prescribed in the 12th section of the "act to establish a system of common schools in the State of Tennessee," passed January 24th, 1838; and each of said trustees shall retain one per cent. on the amount received and paid over by him as a compensation for his services. Apportionment.

SEC. 3. It shall be the duty of the county trustee of each of said counties to enter into bond in the same manner and upon the same terms and conditions as is prescribed in the 43d section of the "act to establish a system of common schools," excepting that said bond shall be made payable to the chairman of the county court of his county and his successors in office; and on failure of said trustee to pay over any money as required by this act, the commissioners of any school district being entitled thereto may proceed against said trustees in the manner prescribed in the 43d section of the above mentioned act.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXLIV.

An Act to repeal part of an act passed on the 9th of February, 1836, entitled an act to provide for the appointment of a collector of the revenue and to define his duties, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That so much of the above recited act as requires the sheriffs of the different counties in this State in which there is no newspaper published to advertise lands, which have been or may hereafter be reported in their respective counties for the non-payment of the taxes due thereon, in some newspaper published at Knoxville, Nashville or Jackson, be, and the same is hereby repealed.

SEC. 2. *Be it enacted,* That it shall be the duty of said sheriffs to advertise all lands reported in their respective counties for the non-payment of the taxes due thereon in any newspaper published in an adjoining county, if any such paper there be, if not, then in the most convenient paper that will publish said lands for the fee allowed by law.

SEC. 3. *Be it enacted,* That it shall be the duty of the sheriffs in the different counties in this State who have not advertised the lands in their respective counties upon which the taxes have not been paid to proceed and sell said lands at the court house door of their respective counties on the first Thursday in April next and succeeding days, if necessary, unless the taxes are previously paid, after giving at least forty days notice of the time and place of sale in some newspaper published in an adjoining county, and if there be no paper published in an adjoining county, then in the most convenient paper that will publish the same for the fee al-

lowed by law for the taxes, costs and charges due thereon for the years 1837 and 1838; and that said sales, when made as aforesaid, be as good and valid in law as if they had been made at the time heretofore fixed by law.

SEC. 4. *Be it further enacted*, That the printers and clerks shall each be entitled to a fee of one dollar and fifty cents on each tract of land advertised for the non-payment of taxes, and the sheriffs one dollar on each tract, to be paid out of the proceeds of the sale of each tract. Fees of printers and clerks.

SEC. 5. *Be it enacted*, That in all cases where the publishers of newspapers refuse to publish said reports, then and in that case it shall be the duty of the sheriff to advertise the same upon the court house door in his county, and it shall be as good and valid as if said reports had been published in a newspaper.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 29th, 1840.] *Speaker of the Senate.*

CHAPTER CXLV.

An Act to amend an act incorporating the town of Sommerville, in the county of Fayette.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That so much of the act incorporating the town of Sommerville, in the county of Fayette, as restricts the corporation in the selection of their constable to one of their district constables, be so altered and amended as to permit the mayor and aldermen of said town to elect their own constable from among the citizens living within the limits of the corporation. Alteration and amendment.

SEC. 2. *Be it further enacted*, That said constable shall give bond as other constables and be entitled to the same fees as are allowed by law to other constables for similar services, and before entering upon the duties of his office he shall take the oath prescribed by law for other constables of this State; and it shall be the duty of said constable to execute all warrants and other process growing out of the corporation laws from justices of the peace as well as those from the mayor of said town. Constable shall give bond.

SEC. 3. *Be it enacted*, That the town of Purdy, in the county of M'Nairy, be, and the same is hereby incorporated under the same rules and regulations that the town of Covington, in the county of Tipton, is incorporated. Incorporation of Purdy.

SEC. 4. That it shall be the duty of the sheriff to hold

Mayor and al-
dermen:

the election for mayor and aldermen on the first Monday in March next, and ever thereafter at the same time as held for the election of mayor and aldermen for the town of Covington.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXLVI.

An Act to legalize the location of the Franklin and Columbia turnpike road.

Franklin and
Columbia road
already laid out.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That so much of the Franklin and Columbia turnpike road as has been laid out and constructed upon the ground selected and marked out by the commissioners, president and directors for said road upon their second re-survey between the town of Franklin, in the county of Williamson, and the bridge over Rutherford's creek, in the county of Maury, be, and the same shall be as legal and lawful as if the same had been constructed upon the ground first marked out and reported by the commissioners.

Privileges, &c.

SEC. 2. *Be it enacted*, That the said Franklin and Columbia turnpike company shall be entitled to all and severally the privileges, liberties and tollage from the town of Franklin to the bridge over Rutherford's creek, in Maury county, allowed said company by its charter, as fully as if said turnpike had been constructed upon the ground first marked out and reported by said commissioners: *Provided*, nothing in this act contained shall be so construed as to affect the rights of any person or persons as stockholders or otherwise who have brought suit or are sued in law or equity with regard to any matter whatever connected with said road or company.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXLVII.

An Act to provide for the taking of the enumeration of the free white male inhabitants of the State of Tennessee.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the several county courts in this State shall, at the January term of said court, in the year 1841, a majority of the justices of the county being present, elect a commissioner, whose duty it shall be to take and make out in writing an accurate and complete list of the number of free white male inhabitants of their respective counties who are twenty-one years of age and upwards, and who shall be resident citizens of their counties on the first day of January, 1841; and it shall be the duty of each of said commissioners to return such list of free white male inhabitants, so taken by them as aforesaid, certified to the clerk of the county court, on the first Monday in July, 1841. Commissioner's duty.

SEC. 2. *Be it enacted,* That it shall be the duty of the clerks of the county courts respectively to make out an aggregate number of free white male inhabitants, returned as by this act directed, and shall enter the same on the minutes of the county court; and it shall further be the duty of said clerks to make out two accurate copies thereof, one of which shall be filed in their offices and the other shall be transmitted to the Secretary of State on or before the first day of October, 1841, which shall be certified under their hands and seals of office; and shall also furnish the senators and representatives from their respective counties with a duplicate thereof. Duty of clerks, of county courts

SEC. 3. *Be it enacted,* That it shall be the duty of the Secretary of the State to receive all such lists to him transmitted as by this act directed, and lay the same before the General Assembly during the first week of the session to be held in the year 1841. Duty of Secretary of State.

SEC. 4. *Be it enacted,* That if any of the county courts in this State should fail to appoint commissioners as contemplated by this act, or should any of the commissioners appointed by virtue of the same die or remove out of the county before the time limited by this act for the taking and returning the list of free white male inhabitants, then it shall and may be lawful for said county court in the county wherein any such failure, death or removal may happen, at the next term of the court to elect one in the place thereof, whose duty it shall be to perform all the duties of commissioners as directed in this act. Failure to appoint commissioners.

SEC. 5. *Be it enacted,* That each commissioner appointed by virtue of this act shall be allowed the sum of three dollars for each hundred free white male inhabitants by him enumerated and returned, which shall be paid by the Treas- Pay of commissioners.

urer of the State, upon a warrant from the Comptroller of the Treasury, which warrant shall be a good voucher to the Treasurer in the settlements of his accounts: *Provided*, no commissioner shall be compelled to take the enumeration for a less sum than fifty dollars.

Duty of county courts. SEC. 6. *Be it enacted*, That it shall be the duty of the respective county courts in this State, after the commissioners that have been elected under the provisions of this act shall have filed in their offices a full and complete list of all the free white male inhabitants in their counties as taken by them, to give said commissioners a certificate of that fact, together with the amount due to said commissioners at the rates in this act specified, upon which certificate the Comptroller of the Treasury shall issue a warrant to said commissioner payable out of the Treasury of the State.

Interrogatories. SEC. 7. *Be it enacted*, That it shall be the duty of the commissioner when taking the enumeration of any person or persons to interrogate him or them whether he or they had been enumerated under this act.

Failure for non-performance of duty. SEC. 8. *Be it enacted*, That if any commissioner, clerk or other officer that may be directed to perform any of the duties of this act should fail or refuse to perform the duties enjoined on them, every such commissioner, clerk or officer so failing, neglecting or refusing shall, upon due proof thereof, be fined in the sum of one hundred dollars, unless sufficient cause shall be shown to the contrary, to be recovered before any tribunal having cognizance thereof, one-half to the use of the informer and the other half to the use of common schools in the county wherein any such failure may happen.

Duty of sheriffs. SEC. 9. *Be it enacted*, That it shall be the duty of any and every sheriff in this State, when they shall have collected any fine as contemplated by the preceding section, to pay one-half of the same to the informer and the other half into the hands of the trustee of his county, whose duty it shall be to distribute the same among the several common school districts in his county in proportion to the scholastic population.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXLVIII.

An Act to amend an act chartering the Bank of Tennessee, passed November 20th, 1811, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That so much of the 9th section of the act chartering the president and directors of the Bank of the State of Tennessee, passed 20th November, 1811, as requires the election of nine directors of said Bank, be so amended as to authorize the election of five directors only of said Bank, any three of whom shall constitute a quorum to transact business. Directors of Bank of Tennessee.

SEC. 2. *Be it enacted*, That in appointing the directors of the branch of the Bank of Tennessee at Sparta it shall not be necessary for more than five directors to reside in Sparta or White county; and that one director shall be appointed for each of the seven counties composing said bank district. Sparta branch.

SEC. 3. *Be it enacted*, That from and after the passage of this act it shall be the duty of the president and directors of the branch of the Bank of Tennessee at Athens, and they are hereby directed, at the election of the debtors to said branch bank, in taking notes in renewal of the notes of the citizens of Bledsoe county which may be payable to said branch, to make the same payable and negotiable at the branch of said Bank of Tennessee at Sparta; and said notes so taken shall be transferred to and received by said branch at Sparta as so much circulation: *Provided*, that nothing herein contained shall be construed to authorize or justify the president and directors of said branch bank at Athens in making larger calls upon the notes of the citizens of Bledsoe county or in making more rigid collections than said bank would have done if the county of Bledsoe had not been attached to the Sparta branch bank district. Officers of branch bank at Athens.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.]

Speaker of the Senate.

CHAPTER CXLIX.

An Act to authorize Allen White to open a turnpike road in Warren and Marion counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That Allen White be, and he is hereby authorized to open a turnpike road from William Dougan's Allen White's turnpike road.

Toll gate.

in Warren county, by way of the Bersheba springs across the Cumberland mountain, and descending the same at Jones' Gap to connect with Haley's turnpike in the direction of Ross's landing; the said road to be about twenty miles in extent, and the said Allen White is and shall be required to make and construct said road in the same manner in which Hill's turnpike road across the Cumberland mountain is required by law to be made; and when the same is completed, said Allen White shall have the right to erect a gate on the same on the top of Cumberland mountain at least two miles south of Bersheba springs, and to receive such toll as is allowed by law to be charged at any one gate on said Hill's turnpike, and he shall have no right to erect but one gate on the same.

Commissioners,
their duty.

SEC. 2. *Be it enacted*, That William Dougan, of Warren county, and John Hale, of Marion county, be, and they are hereby appointed commissioners, who are to perform all similar duties required to be performed by the commissioners of Hill's road referred to in the preceding section, and shall receive the same compensation, and said proprietor shall keep said road mile-marked as other public roads in this State: *Provided*, that no person taking their live stock to range on the mountain or returning with the same shall pay toll for the same.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 31st, 1840.]

CHAPTER CL.

An Act to authorize Moses Thompson, of Rhea county, to open a turnpike road, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That Moses Thompson, of the county of Rhea, be, and he is hereby authorized to cut and open a turnpike road, commencing at a point in Gordon's turnpike road, in the Grassy Cove in the county of Bledsoe, thence crossing Walden's Ridge, the most direct and practicable route, to the foot of said mountain in Rhea county, so as to descend the said mountain between Piney and the head of Van's Spring creek, under the same rules, regulations and restrictions, and be entitled to receive the same tolls as is prescribed by an act entitled "an act to authorize John Tollette, James Orme, George Gordon and Jesse Lincoln to

open and establish a turnpike road," passed the 27th day of November, 1823.

SEC. 2. *Be it enacted*, That Weatherston S. Greer, of Commissioners. Bledsoe county, and James J. Cash and E. E. Warson, of Rhea county, be, and they are hereby appointed commissioners of the said road, and to be governed by the same rules, regulations and restrictions, and to receive the same pay that the commissioners on the road hereinbefore referred to are governed, any law to the contrary notwithstanding.

SEC. 3. *Be it further enacted*, That all and every person or persons residing in the first civil district in Rhea county, and the second civil district in Bledsoe county shall be exempt from paying any toll on said turnpike road, any law to the contrary notwithstanding: *Provided*, said proprietor be, and he is hereby required to keep said road mile Mile-marks. marked as other public roads are required to be: *Provided also*, that nothing in this act contained shall be so construed as to authorize the proprietor to demand or receive any toll from either the citizens of Bledsoe or Rhea counties in taking their stock to the mountain to graze.

SEC. 4. *Be it enacted*, That Henry H. Wiley, Charles F. Wilker and Absalom Adkisson are authorized to open and keep in repair a turnpike road, commencing where the road crosses the Indian fork of Poplar creek and at the south foot of Walden's ridge near Moses Winters, then the nearest practicable route to the Kentucky line at or near where New river crosses the same: *Provided*, the said Henry H. Wiley, Charles F. Wilker and Absalom Adkisson shall, within three years from the first day of February next, make said road as hereinafter required. Wiley, Wilker and Adkisson's turnpike road.

SEC. 5. *Be it enacted*, That it shall be the duty of said Duty of company. company to open said road at least eighteen feet wide, except on hill and mountain sides, which shall be fourteen feet wide, clear of timber, roots and rocks which might impede the progress of wagons or other carriages, where the ground over which it passes will permit it to be done; no elevation on said road shall exceed seven and a half degrees; and to bridge all water courses on said road with substantial materials at least fourteen feet wide, and place substantial hand rails on bridges, and mile mark said road.

SEC. 6. *Be it enacted*, That Moses Winters and John Butler are hereby appointed commissioners, who shall be Commissioners. governed by the same rules and have the same power that the commissioners have who are appointed on George Gordon's and William Brown's turnpike road.

SEC. 7. *Be it enacted*, That said company, their heirs Toll gate. and assigns are authorized to erect and keep a gate on said road, and to demand and receive from every person passing said road at the gate, except persons going to meeting,

muster and mill, the following tolls, to wit: for each four wheeled carriage and its burthen, if drawn by one horse, mule or oxen, fifty cents; if by two, sixty-two and a half cents; and if by three and not more than four, seventy-five cents; if over four, eighty-seven and half cents; for each two wheeled carriage and its burthen, if drawn by one horse, mule or oxen, twenty-five cents; if over that number, thirty-seven and a half cents; for each four wheeled carriage of pleasure with its passengers, if drawn by horses or mules, seventy-five cents; if over two, one dollar; for each two wheeled carriage of pleasure, if drawn by one horse or mule, thirty-seven and a half cents; if by more, fifty cents; for man and horse, twelve and a half cents; for each loose horse, mule, jack or jennet, if not in drove of more than three, six and a fourth cents; if in a drove, three cents; for each head of cattle, two cents; for each hog or sheep, one cent.

Forcible passage of gate. SEC. 8. *Be it enacted*, That if any person shall forcibly or secretly pass said gate without paying the toll, or go round the said gate to avoid the payment of toll, such person so offending shall forfeit and pay five dollars for every such offence to the said company, their heirs, &c., to be recovered by action of debt before any justice of the peace in this State.

Oath of keeper of gate. SEC. 9. *Be it enacted*, That the person appointed to keep said gate by said company shall take the same oath as is prescribed by law for persons keeping said Brown's and Gordon's turnpike gate.

Duty of commissioner. SEC. 10. *Be it enacted*, That it shall be the duty of the commissioners aforesaid, when notified by the said company that said road is in the repair contemplated by this act, to proceed and examine said road, and if they find the same to be in a proper state of repair, they shall issue to said company a license authorizing them to take the toll set forth in this act; and it shall be the duty of the aforesaid commissioners to view said road once at least every six months, and if they find said road out of repair, it shall be their duty to open said gate, and for their services as said commissioners shall be entitled to receive from said company two dollars for each day employed about the same.

SEC. 11. *Be it enacted*, That said company and their successors shall have and enjoy all the rights and privileges secured by this act for the term of thirty years and no longer.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 30th, 1840.]

Speaker of the Senate.

CHAPTER CLI.

An Act to vest in the circuit courts the power to restore certain persons to the rights of citizenship.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the circuit courts of this State may, upon petition of any citizen of the State who may have been rendered infamous by the judgment of any of the courts of this State ten years previous to the passage of this act, restore any such person to the full rights of citizenship, upon proof being satisfactorily made by the oaths of credible and respectable witnesses that the petitioner has for the space of ten years preceding the date of the application, and after the judgment of the court, sustained the character of a person of honesty, respectability and veracity. Circuit courts may restore persons to rights of citizenship.

SEC. 2. *Be it enacted*, That Nathan M'Clendon, of Lawrence county, and Isaac George, of M'Minn county, shall be, and are hereby restored to all the rights, privileges and abilities of other citizens of this State.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 30th, 1840.] *Speaker of the Senate.*

CHAPTER CLII.

An Act directory to the Secretary of State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Secretary of State be, and he is hereby directed to procure, by purchase or otherwise, twenty-five copies of the acts public and private, and also fifty copies each of the journals of [the] Senate and the journals of the House of Representatives of each of the several sessions of the General Assembly of this State from the organization of the State government, and also twenty-five copies of the journals of the Convention of 1834, and the journal of the first Convention of this State; and such acts and journals, when procured, the Secretary of State shall cause to be bound and labelled *the property of the State*; and placed in the office of the Secretary of State, there to remain for the use of the State and all succeeding General Assemblies of this State; *Provided*, the Secretary of State shall not be authorized to purchase copies of any of said acts or journals of any session of the General Assembly if there Directions to Sec'y of State.
Binding of past acts.

should be in his office the number he is herein directed to have bound; *provided, also*, that if there should be a deficiency in the number of the acts or journals in the Secretary's office, and he cannot procure the number herein directed, in that case he shall cause to be bound and placed in the Secretary's office, as above, such number of said acts and journals as he may be enabled to procure.

SEC. 2. *Be it enacted*, That the Comptroller of the Treasury, upon the certificate of the Secretary of State, shall issue his warrant payable at the Treasury for such sums of money as shall be necessarily expended in executing the provisions of this act, which shall be paid out of any money in the Treasury unappropriated.

SEC. 3. *Be it enacted*, That the Secretary of State be directed to report to the next session of the General Assembly how and in what manner he shall have executed the provisions of this act, what number of acts and journals, if any, and of what sessions of the General Assembly, he shall have found it necessary to purchase, what number of manuscript journals are in his office and the sessions at which they were respectively made, and what sessions of the General Assembly, if any, for which there are no manuscript journals of both or either house of the General Assembly in his office.

SEC. 4. *Be it further enacted*, That it shall be the duty of the Secretary of State to take possession of all such books and documents, and shall be held responsible for the same.

SEC. 5. *Be it further enacted*, That the attorney general of the State is hereby authorized, if he shall deem it necessary in the discharge of his official duty, to withdraw from the office of the Secretary of State at any time any of the books, documents or other papers in said office, and he shall be responsible for the return of the same.

SEC. 6. *Be it further enacted*, That the Secretary of State shall, upon the adjournment of this General Assembly, take into his possession the furniture and other articles had for the use of this General Assembly.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 29th, 1840.]

Expenses, how paid.

Secretary shall report to next session.

Attorney general—public documents.

Public furniture, &c.

CHAPTER CLIII.

An Act for the relief of the heirs of the occupants in the Ocoee district.

Be it enacted by the General Assembly of the State of Tennessee, That in case any person entitled to a preference or priority of entry in the Ocoee district shall depart this life before his or her entry of such occupant claim, the preference right of such entry shall descend to the heirs of such deceased occupant, and the widow of any deceased person so entitled shall have an equal interest with other heirs of the deceased in such occupant claim. Widows and heirs of occupants.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 31st, 1840.]

Speaker of the Senate.

CHAPTER CLIV.

An Act to define and fix the duration of the terms of service of directors appointed to represent the State in companies chartered by the State for purposes of internal improvement.

WHEREAS, the 22d section of the act of Assembly passed in 1837-8, authorizing the Governor of the State to appoint directors in the companies chartered by the State for purposes of internal improvement leaves the duration of those appointments undefined: therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That in all cases where the Governor of the State is required by the existing laws of the State to appoint directors to represent the State in companies chartered for purposes of internal improvement, the terms of service of such directors shall be the same as those elected by the private stockholders, where the same may be specified in the charter of said companies: *Provided*, that in cases where the term of service of the directors elected by the private stockholders shall not be fixed, then the term of service of the State directors shall be twelve months from the date of their respective appointments; *and provided, also*, that those appointed shall continue in office till their successors are appointed and qualified. State directors term of service.

SEC. 2. *Be it enacted,* That O. Jenkins, F. H. Stump, J. R. Garrett, Samuel Casey, R. M. Ewing, J. M'Gavock, W. B. Ewing, W. J. Drake, C. W. Morman, A. Lowe, J. Yarbrough, D. Young, G. Conrad, G. Washington, R. H. Cheat- Commissioners of White's creek turnpike company.

ham be, and they are hereby appointed commissioners in the place of the present commissioners of the White's creek turnpike company, with the same powers that were conferred upon the present board of commissioners.

SEC. 3. *Be it enacted,* That a majority of said commissioners shall constitute a board for the transaction of business, and a majority of them shall have power to locate said road; and said company shall have the further time of three years to complete said road.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 29th, 1840.] *Speaker of the Senate.*

CHAPTER CLV.

An Act to amend the acts incorporating the town of Memphis.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the acts incorporating the town of Memphis, in Shelby county, be, and the same are hereby amended so that the said town and the inhabitants thereof are hereby incorporated and shall be known by the name and style of the mayor and aldermen of the city of Memphis, under the same rules, regulations and restrictions, and with the same provisions, privileges and capacities as are extended to and enjoyed by the inhabitants of the city of Nashville, in the county of Davidson, by its existing acts of incorporation, and every article, clause and section of said acts aforesaid as now in force incorporating the city of Nashville, shall have as full force, operation and effect in the government of the city of Memphis and the inhabitants thereof and all other persons concerned therein as if herein again specially enacted.

SEC. 2. *Be it enacted,* That the mayor and aldermen of the town of Memphis shall, at such time as they may appoint by advertisement in the public newspapers in Memphis giving thirty days notice, open and hold an election in said town to ascertain whether a majority of the voters qualified to vote for mayor and aldermen are in favor of the amendments proposed in this act; and if it shall appear that a majority of those voting at such election are in favor of this act, then the mayor shall forthwith issue his proclamation declaring this act to be in full force and effect.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 31st, 1840.] *Speaker of the Senate.*

CHAPTER CLVI.

An Act to amend an act granting Jesse Lincoln a turnpike road, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the turnpike road leading from the Knotty Oak to the top of Snow's Hill, in DeKalb county, be, and the same is [hereby] vested in Thomas C. and Russell Marchbanks, the present owners. Marchbanks' turnpike road.

SEC. 2. *Be it enacted*, That the said proprietors shall extend the said road eastwardly to the White county line, and whenever the Caney Fork river shall, by reason of high water, be impassable, and it shall be necessary to ferry the same, the proprietors shall be entitled, in addition to the toll now received for pikeage, [to] toll for ferriage to the same amount and in like manner as they are entitled to pikeage. Extension of road.
Toll.

SEC. 3. *Be it enacted*, That it shall be the duty of the entry taker of the Ocoee district to make out a certified copy of all entries made in his office, and deposite the same in the office of the register of the Ocoee district within thirty days after the date of such entries. Entry taker of Ocoee district.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 31st, 1840.]

Speaker of the Senate.

CHAPTER CLVII.

An Act supplemental to an act passed January 19, 1838, to charter the White's creek springs company.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the shares in said company be increased to the number of one thousand in lieu of five hundred. Increase of shares.

SEC. 2. *Be it enacted*, That the number of directors be increased to nine in lieu of five, and that five shall constitute a quorum to transact the business of the company. Of directors.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 31st, 1840.]

Speaker of the Senate.

CHAPTER CLVIII.

An Act to incorporate the Van Buren male academy, in Fentress county, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That John H. Richardson, William Travis, James Story, Charles Ragan, James H. Beson, Alexander Davidson and Thomas Riley be, and they are hereby constituted and appointed a body politic and corporate by the name and style of the trustees of the Van Buren academy, and by that name may sue and be sued, plead and be impleaded, and shall have fifty years succession and a common seal, and shall have, hold and acquire all property both real and personal which may be necessary for the purposes of the academy, and shall have, exercise and enjoy all such rights, powers and privileges as are usually possessed and exercised by the trustees of other incorporated academies, and may ask, sue for and demand any monies to which said academy may be entitled under any law in this State for the benefit of academies.

SEC. 2. Any four of said trustees shall constitute a quorum for the transaction of business; and upon the death or refusal to act, removal or resignation of any member, the vacancy may be filled by the county court of Fentress county.

SEC. 3. *Be it enacted,* That the trustees are authorized to elect a president and all officers necessary for the management of the institution, and may make such by-laws as they may deem necessary not inconsistent with the laws of the land.

SEC. 4. *Be it further enacted,* That it shall be the duty of the trustees of the Mount Cumberland academy to pay over one-half all monies in their hands to the trustees of the Van Buren academy.

SEC. 5. *Be it enacted,* That the trustees of the Van Buren academy shall, as near the centre of the first battalion in Fentress county as may be, erect a building and locate said academy and proceed to put the same in operation as other academies in this State, and shall from time to time be entitled to receive one-half of all academy monies due said county.

SEC. 6. *Be it enacted by the General Assembly of the State of Tennessee,* That William R. Campbell, William Lea, Reuben Shores, Michael H. Frogg, Jesse Cobb, Matthew Wood, Joshua Story be, and they are hereby constituted and appointed by the name and style of the trustees of the Mount Cumberland academy, by that name may sue and be sued, plead and be impleaded, and shall have and exercise all power and authority that is allowed to the trustees of the Van Buren academy by this act.

SEC. 7. *Be it enacted*, That the trustees of the Mount Cumberland academy shall, at some suitable place in the second battalion, in Fentress county, erect a building and locate said academy, and shall be entitled to one-half of all academy funds in said county; any four of said trustees shall constitute a quorum for the transaction of business. Location.

SEC. 8. *Be it enacted*, That an academy is hereby incorporated in the county of Polk, to be known by the name of the Ocoee academy, and James M'Kamy, John S. O'Neill, Robert W. M'Clary, William M. Biggs, William Henry, Jacob Moore and Abram Lillard be, and they are hereby constituted a body politic and corporate by the name of the trustees of the Ocoee academy, with all the powers and privileges granted in the act incorporating the Oak Grove academy, in Bradley county, passed December 16th, 1837. Ocoee academy.

SEC. 9. That when a vacancy shall happen in the board of trustees of Lawrenceburg academy, in the county of Lawrence, the same shall be filled by the remaining members of said board. Lawrenceburg academy.

SEC. 10. *Be it enacted*, That the trustees hereby incorporated and their successors shall be individually liable for all claims [against] their respective corporations: *Provided*, no trustee shall be liable for any claim who may not agree to the contract upon which the claim may be founded. Liabilities.

SEC. 11. *Be it enacted*, That an academy is hereby established in the county of White, to be known by the name of Haywood academy, to be located on the south side of Cherry creek and on the west of the Calf-killer river, and that David Snodgrass, William Glenn, James Dearing, Thomas Snodgrass, John Brown, Joel Yeager and William R. Tucker shall be trustees. Haywood academy.

SEC. 12. *Be it enacted*, That the said trustees shall locate said academy and erect a suitable building, and which academy shall be subject to the same rules, laws and regulations and restrictions as other academies in this State. Location.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 18th, 1840.] *Speaker of the Senate.*

CHAPTER CLIX.

An Act to incorporate the Shelbyville, Winchester and Jasper turnpike company.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That James Robinson, John Holder, Benjamin Decker, Mark Hutchins, Wm. Estill, Thomas S. Opening of books.

Logan, James Sharpe, Peter S. Decherd, Thomas Wilson, and Wallace Estill, Jr., of Franklin county, and William Rice, Erasmus Ally and David Rankin, of Marion county, are hereby appointed commissioners to open books for the purpose of receiving subscription to the amount of one hundred and fifty thousand dollars, or a less amount if the same may be deemed sufficient, to be applied to the making a turnpike road from Shelbyville, in the county of Bedford, to Winchester, in the county of Franklin, and to the point where the same shall intersect the Pelham and Jasper turnpike on Battle creek, in the county of Marion, which sum of one hundred and fifty thousand dollars, or such less sum as may be deemed necessary, shall be divided into shares of fifty dollars each; the said commissioners shall meet at Winchester on such day as they shall appoint after the passage of this act, and make such arrangement as they may think advisable for the opening of said books, and as soon as twenty thousand dollars of said stock is taken, they may call a meeting of the stockholders at Winchester for the purpose of electing six directors, who, when elected and qualified, shall form a board for the direction of said road, of which meeting twenty days notice shall be given by advertisement at the court house door in said towns of Shelbyville, Jasper and Winchester; and said directors shall continue in office for one year and until their successors are elected and qualified; and in said election each share of said stock shall entitle the holder to vote one vote, entitling each stockholder to give as many votes as he *bona fide* holds shares of stock; said election shall be held annually at such time and place as said directors may appoint and advertise as above; the board of directors shall elect a president, who shall be one of their own number, and also a treasurer, who shall also be a director or stockholder; and which board of stockholders are hereby created a body corporate and politic, with power to sue and be sued, and have succession for ninety-nine years, and may buy, sell and own such property, real and personal, as may be necessary for the location, completion and keeping up said road, and no more.

SEC. 2. *Be it enacted,* That the company hereby incorporated shall have the same powers and be subject to the same liabilities, and be in all respects governed by the provisions of an act to incorporate a company to be called the Lebanon and Nashville turnpike company, passed February 12th, 1836, except as to places of advertising and meeting, which is above provided for in this act, except also in the manner in which the road shall be finished and constructed, the directors hereby being authorized to make the whole of said road by grading only, or may grade part and cover a part thereof with stone, as they may deem most advisable; and the manner in which said grading shall be done, when the

Powers of com-
pany.

same ascends or descends the Cumberland mountain; and there shall be no toll gate on said road nearer than one mile to any town, nor shall any such gate be erected on said road nearer than five miles to each other; and in all other respects where the same is not repugnant to this act the provisions of the charter of the Lebanon and Nashville turnpike shall govern the turnpike company hereby created.

SEC. 3. *Be it enacted*, That the said turnpike company may, at the discretion of the directory and stockholders, organize, on sufficient stock being subscribed to contract, build and make the said road from Shelbyville to Winchester in a separate work, or the road from Winchester to the intersection with the Pelham and Jasper road on Battle creek in a separate work according to the foregoing provisions: *Provided*, said company shall not erect a gate in Bedford county without the consent of the county court of said county; *and provided further*, that the Governor shall not subscribe for stock in behalf of the State in this company. The General Assembly may at any time alter or modify this act or any of its provisions.

Organization.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,

Passed January 30th, 1840.]

Speaker of the Senate.

CHAPTER CLX.

An Act more effectually to provide for the collection of the public revenue from delinquent officers.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*; That it shall be the duty of the judges of the supreme, chancery and circuit courts of this State respectively, at the first term after the election, or at the term of the appointment of the clerks, to examine and attest the bonds by law required to be given by them, and cause the same to be recorded, and a certificate of such record endorsed thereon by the clerks respectively.

Duty of judges.

SEC. 2. *Be it enacted*, That the bonds for the faithfully collecting and paying over all revenue accruing to the State Treasury, shall, by the judge or chairman before whom acknowledged, be transmitted to the Comptroller of the Treasury, whose duty it shall be to enter a credit for such bond in the office account current of the clerk, specifying the date and amount of penalty, and forthwith execute and forward his receipt to the clerk, and file the original in his office.

Bonds.

SEC. 3. *Be it enacted,* That if, at the expiration of four months after the general elections or appointment of clerks, the bonds aforesaid should not have been received, it shall be the duty of the Comptroller forthwith to notify the judge or chancellor or chairman of such fact; and if the bond, from any cause, should not have been taken and already forwarded, it shall be competent in the court to cause the same to be taken at the next or any subsequent term; but should the original have already been transmitted, and from any casualty not received, the court or judge presiding, at the first term after receiving such notice from the Comptroller, shall direct the clerk to make a certified copy of the bond from the records of the office, which shall be received, entered and filed, as provided for the original bond in the second section of this act; and if the clerk of any circuit court shall fail or refuse to execute the bond, as required by law or by this act, it shall be the duty of the judge holding said court to suspend said clerk and fill the office of said clerk by a *pro tem.* appointment; and the person so appointed shall execute bonds with security as by the law required, and hold and discharge the duties of said office until his successor shall be elected by the people and enter into bond with security as required by law.

SEC. 4. *Be it enacted,* That it shall be the duty of the Comptroller of the Treasury to keep, in a well-bound book or books, copies of all letters or correspondence which he shall address to or have with any defaulting sheriff, clerk or other defaulting officer, or with any attorney or solicitor general in relation to the collecting or paying over the public revenue or any part thereof.

SEC. 5. *Be it enacted,* That the revenue bond given by the clerk of the county court, when attested by the chairman and recorded and certified as herein prescribed for the bonds of the clerks of the supreme, chancery and circuit courts, shall, within ten days from the date of such bond, be enclosed by the clerk and forwarded by mail to the Comptroller as in case of the other clerks: and if, at the expiration of four months from the general election or temporary appointment of clerks, any of the bonds aforesaid should not have been received, it shall be the duty of the Comptroller forthwith to notify the attorney general of the circuit within which the omission may have occurred, whose duty it shall be, at the first term of the county court in such county to call on the clerk and receive the original bond, if already made and certified, or an authenticated copy, if the original be already sent and lost by casualty, and transmit the same, as required in other cases; and if the bond be not executed and recorded as required by law, it shall be the duty of the attorney to have notice given *instantly* to the clerk, and on some assigned day of

the term, move the justices of the county court to take the bond, with sufficient security to be approved by the court, recorded by the clerk of the county court, and attested and transmitted by the chairman: In case the clerk shall not have already given bond, or, upon being notified, shall fail to attend and enter into bond before the justices of the county court, as herein provided, it shall be the duty of the justices, on application of the attorney, to remove the clerk from office, and appoint another in his stead to serve until the next general election, and until a successor enters into bond and is duly qualified.

SEC. 6. *Be it enacted*, That the revenue bond given by the sheriff or collectors of public taxes shall be made for at least double the amount of such revenue probably accruing during the term for which he is elected; and when attested by the clerk or chairman of the county court, and recorded and certified, shall, within ten days from the date of such bond, be forwarded by the clerk to the Comptroller of the Treasury, to be entered and filed as directed for bonds given by the clerks; and the receipt of the Comptroller shall be given to and in the name of the clerk of the county court; and if, at the expiration of two months from the general election or temporary appointment of sheriffs or collectors, any of the bonds given for the due collection and payment of the public taxes shall not have been received, it shall be the duty of the Comptroller forthwith to notify the clerk of the county of that fact, whose duty it shall be to forward the bond to the Comptroller without delay, but should it already have been forwarded and lost by casualty in transmission, the clerk shall make a certified copy of the bond from the record in his office, and forward the same in lieu of the original; and if no bond shall have been given, the clerk shall make known such omission to the county court at its first session thereafter, who shall then have the bond properly executed.

Amount of revenue bonds.

SEC. 7. *Be it enacted*, That the clerks of the several courts shall make settlements at the time and in the manner heretofore prescribed by law, and should any of the county courts fail or neglect to appoint county commissioners, the clerks shall nevertheless make their settlements in due time, and verify the same by their own affidavits respectively. The revenue received by sheriffs or collectors of public taxes shall, for each year, be due and payable on the last day of such year; and so soon as the time shall have expired for the annual visits of the Comptroller to Knoxville and Jackson, for the purpose of making settlements with sheriffs, clerks and others, as directed by the 24th section of the act passed 23d January, 1836, chapter 12th, it shall be the duty of the Comptroller forthwith to make out statements of all delinquencies of clerks, sheriffs or others,

Settlements by clerks.

charged with the collection of public revenue, and transmit the same by mail or otherwise to the attorney general of the circuit in which such delinquency may occur, with directions to collect the amount due from such delinquent officers and his securities by motion or suit at law at the first or any subsequent term of the circuit court; and said court is hereby authorized and required to give judgment and award execution on a copy of the bond furnished from the clerk's office, (which copy the clerk is hereby directed to furnish to the attorney when called on,) or a copy of the original, certified by the Comptroller from his office, unless from sufficient suggestion, on oath, the court may require the production of the original.

Sec. 8. *Be it enacted,* That it shall be the duty of the Comptroller's entries. Comptroller to make entry on his books of all statements so sent to the attorney, both of the amount claimed and of the date when sent, and the respective attorneys, on receiving such statement, shall in writing acknowledge the same, which acknowledgment shall be filed by the Comptroller in his office, and on or before the first day of August in each and every year, it shall be the duty of the attorney to pay into the Treasury the several sums which they may have collected, and furnish the Comptroller with a full statement of the condition of such claims as remain uncollected.

Sec. 9. *Be it enacted,* That it shall be the duty of the Comptroller's reports. Comptroller, within the first twenty days of each stated session of the General Assembly, to make a report of all cases of delinquencies which have been placed in the hands of the respective attorneys, accompanied by the explanation and statements of the attorneys, to the end that the General Assembly may, if deemed expedient, direct other or further measures to be taken: *Provided,* that the Comptroller shall have power, upon his own apprehension of probable loss, or upon the reasonable suggestion of others, to enforce collection from any clerk, or sheriff, or collector at the first or any subsequent term of the circuit court after the same is due, without waiting the expiration of the time when settlements are directed by law to be made with the sheriffs and others at Knoxville and Jackson.

Sec. 10. *Be it enacted,* That it shall be the duty of the Comptroller's attendance in eastern and western divisions Comptroller to attend at Knoxville, in the Eastern division, on the first Monday of July and remain there fifteen days, and at Jackson, in the Western division, on the first Monday of April, and remain there for the space of fifteen days, for the purpose of settling with clerks, collectors and other officers, who may be required by law to pay money into the Treasury; and also, to audit any claims that may be presented for adjudication in either of the divisions of the State during his continuance at such place; and shall also provide, by arrangements with the banks in the different di-

visions of the State, so as to have such claims paid in the division where the claimants may reside.

Sec. 11. *Be it enacted*, That it shall be required of the ^{Clerks' bonds:} clerks of the county courts respectively, to give bond in at least double the probable amount of all the revenue from merchants' licenses and other sources receivable by them; which probable amount shall be estimated from a comparison of the revenue of the previous year with the reasonable calculation of future receipts.

Sec. 12. *Be it enacted*, That the compensation to the ^{County commis-} several county commissioners shall be paid to them by the ^{sioners.} clerks with whom they make the settlement, to be allowed by the Comptroller in the annual settlement of the clerks, and at no other time and the compensation to clerks of the circuit courts for countersigning and recording licenses shall be allowed them in their annual settlement with the Comptroller, and at no other time.

Sec. 13. *Be it enacted*, That in all cases where a sheriff or other collector of the public revenue, or either of his ^{Judgment of} securities, may have died before motion is ^{court in certain} made for any neglect or omission of payment on the revenue bond, it shall be the duty of the court to give judgment on motion against the securities alone, in case of the death of the principal or against all the survivors on the bond, in case of the death of any or either of the securities, in the same manner and with the same effect as if given against the principal and all the securities as now provided for by law.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Passed January 25th, 1840.]

Speaker of the Senate.

CHAPTER CLXI.

An Act to alter and amend the 11th section of chapter 17th of the public acts of 1835-6.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That in judgment rendered by the court for the condemnation and sale of land levied upon by execution issued from the courts of justices of the peace, the papers to be entered in the minutes of the court shall be the warrant, attachment, or other leading process of the suit, with the officer's return thereon, the prosecution and bail bonds, where the condition has not been discharged, affidavits for attachment or other process, judgment, the execu- ^{Judgment:}

tion levied, with the officer's return, together with the judgment of court.

SEC. 2. *Be it enacted,* That for making the record of each cause as contemplated by this act in a methodical manner the clerk shall be entitled to the same fee allowed by law for recording other causes without bill of exceptions, payable by the defendant, and to be taxed in the bill of costs.

SEC. 3. *Be it enacted,* That this act shall be in force from and after the first day of May next.

SEC. 4. *Be it enacted,* That all grants or copies of grants issued by the State of North Carolina or this State, and other papers authorized by law to be registered, and which shall have been registered in any of the registers' offices of this State more than twenty years before any suit brought in which the same shall be offered as evidence, shall be presumed to be upon sufficient authority, and may be read as evidence without further proof, and the registration thereof shall be good and effectual though the authentication be informal; and in like manner copies from such books may be read in evidence where the original paper registered cannot be produced.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Passed January 31st, 1840.]

CHAPTER CLXII.

An Act making an appropriation of money to defray the expenses of the present session of the General Assembly, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the following sums of money be and the same are hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the following purposes: that the clerks of each house be allowed the sum of six dollars each per day, and the door-keepers of each house be allowed the sum of four dollars each per day.

SEC. 2. To F. R. Raines for wood furnished the General Assembly, the sum of seventy-two dollars; to Edward Buchanan for wood furnished the Senate, thirty dollars; to Eichbaum and Barnard for books and stationary for the Senate, fourteen dollars and fifty cents; to Orville Loving for fourteen days service as clerk to the joint select committee on school monies, fifty-six dollars; to J. B. Clements as witness be-

fore said committee, four dollars; to John Clark as witness before said committee, four dollars; to Samuel Todd, Samuel E. Gilleland and George W. Dennis as witnesses before said committee, eleven dollars each; to Thomas T. Bullock for fitting up the Senate Chamber at the commencement of the session, twenty dollars; to F. G. Roach Sergeant at Arms to the Senate, eighty-five dollars; to Thomas Love twelve dollars and forty-one cents, postage paid by him as Speaker of the Senate; to R. D. Casey eighteen dollars and fifty cents, for that amount paid by him to Saml. P. Hunt for keeping the door while said Casey was sick; and to said Casey eight dollars and twenty-five cents, paid by him for sawing wood for the Senate; to John O. Hill for seventy-three days services as assistant clerk to the Senate, four hundred and thirty-eight dollars; to Samuel P. Hunt for seventy-one days services as messenger to the Senate, seventy-one dollars; to T. Kezer for hire of black man Ned to make fires and keep water in the Senate during the session, eighty-seven dollars and seventy-five cents; to Berry & Tannehill for candles and stationary for the Senate, four hundred and forty-nine dollars and seventy-four cents; to Orville Loving for copying remainder of journal for printer not copied at the adjournment, fifty dollars; to S. Nye & Co. for printing done for the two houses before contract was made for the job printing of the present session, eleven dollars and seventeen cents; to G. S. Crockett for additional services rendered the House of Representatives in enrolling, engrossing, &c., one hundred dollars; to Lewis Horn for painting dome of the Senate and House of Representatives and for varnishing and painting one hundred and fifteen spittoons, one hundred and sixty-eight dollars; to James H. Graves for running and measuring a line dividing the counties of Fayette and Shelby, six dollars and seventy-five cents; H. & J. Kirkman for sundry articles of merchandise furnished for repairing the Representative Hall, fifty-five dollars and eighty-three cents; John M. Hill for carpeting and sundry other articles, three hundred and eighty-six dollars and ninety-seven cents; Jane Williams for making carpets for the House of Representatives, forty dollars; John K. Buchanan for wood, two hundred and eighty-six dollars; Eichbaum & Barnard for stationary and candles for House of Representatives, five hundred and eighty dollars and seventy-eight cents; S. S. Barker for repairing the Senate Chamber and House of Representatives, three hundred and fifty-five dollars; William Fortner, yellow boy, for keeping fire and water in the House of Representatives, one dollar per day during the session; J. Stringfield for hauling water for the Senate and House of Representatives, forty dollars; to Ramsey & Craighead for publishing proclamation of the Governor, three dollars; to Berry & Tannehill for stationary,

sixty-three dollars and sixty-two cents; for binding two journals by order of Luke Lea after the last session of the General Assembly for 1837-8, six dollars.

SEC. 3. *Be it enacted,* That the act entitled an act to provide for the distribution of the acts and journals, passed 26th January, 1838, be, and the same is hereby revived and shall apply to the distribution of the acts and journals of the present session of the General Assembly, and of the acts of Congress and other documents placed in the office of the Secretary of State for distribution; to Jonas E. Thomas seven dollars, postage paid by him as Speaker of the House of Representatives; to Eichbaum & Barnard for re-binding journals of both houses of the present session, five dollars and twenty-five cents.

SEC. 4. *Be it enacted,* That the Comptroller of the Treasury examine the accounts of J. Geo. Harris, the printer of the two houses of this General Assembly, and settle the same agreeably to contract and direct the payment of the same, if it does not exceed the sum of four thousand three hundred and six dollars, which sum is hereby appropriated to be paid out of any money in the Treasury not otherwise appropriated.

SEC. 5. *Be it enacted,* That the keeper of the Penitentiary pay to Daniel M'Intosh one hundred and fifty dollars out of the proceeds of the Penitentiary, for house rent.

SEC. 6. *Be it enacted,* That the cashier of the Bank of Tennessee shall receive for his services a salary of two thousand five hundred dollars per annum, to be paid by said Bank of Tennessee, and any law to the contrary is hereby repealed.

SEC. 7. *Be it enacted,* That the city of Nashville, in the State of Tennessee, shall be the seat of government until otherwise directed by law, and that the next session of the General Assembly of the State shall meet and hold its session at and in the city of Nashville aforesaid.

JONAS E. THOMAS,

Speaker of the House of Representatives,

L. H. COE,

Passed February 1st, 1840.]

Speaker of the Senate,

RESOLUTIONS.

NUMBER I.

Preamble and Resolutions instructing our Senators and requesting our Representatives in Congress in relation to certain subjects.

WHEREAS, the General Assembly of the State of Tennessee have, on various occasions, when in their opinion the great public interests of the country demanded it, expressed in the most solemn form their views in regard to questions of a national character involving the welfare of the people of the United States, and have at all times when deemed necessary to give practical effect to the sentiments which they entertained, availed themselves of the power which legitimately, and in conformity with long established Republican usage throughout the Union, belonged to them, of instructing their Senators and requesting their Representatives in Congress to carry out, as to specific measures, their declared wishes; and whereas, the extraordinary circumstances which have existed for the last few years in the financial and commercial interests of the United States remain unabated, and under causes of increased excitement and difficulty, originating as we believe in the same vast source of public mischief; and whereas, we do solemnly believe that to that source, the late Bank of the United States, is in a great degree to be attributed the oppressive calamities under which we have suffered and through which we are now actually passing; and whereas, during the history of the last few years we have seen this mammoth monied power struggling almost with success against the Government, and wielding a power in the production of panic and disaster that, in the language of its boldest advocates, we were pronounced to be in the midst of a revolution; and the terrible evils which we have not only been taught it may inflict, and the *present admonitions*, which proceed from the last throes and agonies of that expiring power, justify us, and demand at the hands of the General Assembly, who should truly be the guardians of the happiness and prosperity of the people, any effort which can in any wise strengthen the councils of the nation against the recurrence of similar causes and results, and which

may encourage the administration of the country to adhere to its existing wise and prudent policy in regard to this great and absorbing subject: and

WHEREAS, the Constitution of the United States contemplates a Treasury to be held by the Government wholly free from any necessary connexion with Banks, and the present crisis, as well as times past, have demonstrated the wisdom of such a measure; this General Assembly do most fully approve the policy heretofore recommended by the President of the United States in relation to what has been denominated an Independent Treasury, and believe that the passage of the measure brought forward in the last Congress, or some similar system upon this subject, would be not only prudent, but is absolutely demanded by the peculiar and remarkable vicissitudes which have acted powerfully upon the currency and commerce of our country; and further, that such a measure would contribute to the more permanent stability of our institutions, the independence of the Government for all purposes of peace and war, to check the wild and extravagant spirit of the age that has come upon us with a reckless fury, and would ultimately tend to bring us back to sober reflection, steady pursuits, and the confirmed possession of an ample prosperity; and

WHEREAS, this General Assembly do believe that the public domain of the United States should not be treated by the General Government as a mere source for the acquisition of money to the public Treasury, but by reducing the price to reasonable and moderate rates should rather be regarded as the great and extensive means of encouragement to the augmentation of our population, and the reward of the laborer and the husbandman, (by the grant of pre-emption rights) who in time of peril will be a powerful bulwark to the frontier, and the right arm of safety and defence against the hostile invasion of a foreign foe; and

WHEREAS, the liberty of speech and the freedom of the press are considered as invaded directly or by implication in the provisions of a Bill which was brought before the Senate of the United States at the last session of Congress, entitled "a Bill to prevent the interference of certain federal officers in elections;" and

WHEREAS, the people of the United States have long paid a tribute of millions to the monopolists of Salt, under the tax which has been imposed upon the foreign importations of that necessary article, whereby the quantity which would otherwise have been introduced into the United States has been diminished, and the price to the consumer increased: and

WHEREAS, reviewing the history of our Government for the last ten years, a period which will be remarkable through all future time, and looking around upon the events now being daily developed, this General Assembly have reason to congratulate the country that its destinies were cast, at the approach of the great and trying events which have within that period rapidly succeeded each other, in the hands of our venerable and patriotic fellow-citizen, Andrew Jackson: and whereas, his policy began the restoration of that system which was hailed in 1800 as the establishment of sound principles, and was steadily pursued by him and transmitted with the impress of his character to the hands of

his distinguished successor; and whereas, the firm and patient wisdom of the present chief magistrate, pursuing the same policy, has successfully conducted our domestic and foreign relations in the midst of peculiar and very extraordinary difficulties; Therefore, be it,

1st. *Resolved by the General Assembly of the State of Tennessee,* That our Senators in Congress be instructed and our Representatives requested to vote against the chartering by Congress of a National Bank.

2d. *Resolved further,* That our Senators in Congress be instructed and our Representatives requested to vote for, and to use all fair and proper exertions to procure the passage of the measure brought forward in the Congress of the United States commonly called the Sub-Treasury Bill or Independent Treasury Bill, the object of which was to separate the collection, keeping and disbursement of the public money from all Banks, so as to make the Treasury of the United States independent of all Banks, as recommended by the President of the United States in his several messages communicated to the last Congress of the United States.

3d. *Resolved further,* That this General Assembly doth unqualifiedly condemn the provisions of a Bill heretofore before the Senate of the United States at its last session entitled "a bill to prevent the interference of certain federal officers in elections," which Bill this General Assembly doth declare to be a violation of the Constitution of the United States, which provides that "Congress shall pass no law abridging the freedom of speech and of the press," and they do as unqualifiedly condemn the vote given in favor of said Bill by the Senators in Congress from this State; and our said Senators in Congress are hereby instructed, and our Representatives requested, to vote against and to use all fair and proper exertions to prevent the passage of the same or any similar Bill.

4th. *Resolved further,* That our Senators in Congress be instructed and our Representatives requested to vote against the measure heretofore brought before Congress, which had for its object the distribution among the States the proceeds of the sales of the public lands, and that they be further instructed to vote for and use all fair and proper exertions to procure the passage of a law for the graduation and reduction of the price of the public lands, and for granting pre-emption rights to the occupant settlers thereon.

5th. *Resolved further,* That our Senators in Congress be instructed and our Representatives requested to vote for and use all fair and proper exertions to procure the passage of a law repealing the duties on imported salt.

6th. *Resolved further,* That this General Assembly doth heartily approve the leading measures and policy of the administrations of Andrew Jackson, and Martin Van Buren, and our Senators in Congress are hereby instructed and our Representatives requested to support in good faith the leading measures and policy as brought forward and advocated by the present President of the United States, and to use all fair and proper exertions to carry out, sustain and accomplish the same.

7th. *And resolved further,* That the Governor be requested to trans-

mit to each of our Senators and Representatives in Congress a copy of the foregoing preamble and resolutions.

JONAS E. THOMAS,
Speaker of the House of Representatives.
 THOS. LOVE,
Speaker of the Senate.

Adopted November 14th, 1839.]

NUMBER II.

A Resolution directory to the Secretary of State.

WHEREAS, Solomon Copeland, John McKernan and others made entries and have obtained grants upon the following warrants within what is commonly called the Salt Lick reservation, in the counties of Henry and Humphreys, to wit: Certificate warrant No. 3,360, for two hundred and fifty acres; No. 4,638, for two hundred acres; No. 3,806, for forty-two acres; No. 6,968, and No. 3,456, for five hundred and five acres; and 3,184, for six hundred and forty; also an entry on No. 3,000, for ninety-eight acres. And whereas, the Congress of the United States at their last session granted rights of occupancy and pre-emption to the soldiers within the Salt Lick reservation for the same lands so entered by said Copeland, McKernan and others, and they being desirous of avoiding any conflict with the General Government in their grants to said citizens aforesaid, or with said citizens, therefore,

Resolved by the General Assembly of the State of Tennessee, That said Copeland, McKernan and others, or their heirs, &c., are hereby authorized to withdraw said warrant No. 3,000, for ninety-eight acres, and that the Secretary of State is hereby authorized to issue certificate warrants upon said grants, or so much of them as have been granted within said Salt Lick reservation, to said Copeland, McKernan and others, upon their surrendering the grants aforesaid, which shall then be null and void.

JONAS E. THOMAS,
Speaker of the House of Representatives.
 L. H. COE,
Speaker of the Senate.

Adopted January 22d, 1840.]

NUMBER III.

A Resolution directing the Secretary of State to adjudicate warrant No. 1,239.

Resolved by the General Assembly of the State of Tennessee, That the Secretary of State be and he is hereby directed to adjudicate a land warrant No. 1,239, purporting to have been issued by Wm. Hill, Secretary of State of North Carolina, dated 27th October, 1835, for the benefit of the heirs of Jeremiah Bullock, for nine hundred and fourteen acres of land, and to certify the same, if found on adjudication to be a *bona fide* warrant. *Provided,* before the Secretary shall adjudicate said warrant, it shall be established by legal testimony to his entire satisfaction, that the heirs of said Jeremiah Bullock, or their assignee, or the assignee of the said Jeremiah Bullock, have not already received land for the consideration of which said warrant was issued; that said warrant was issued by said Wm. Hill for a good and *bona fide* consideration remaining still due and unsatisfied; that the legal title and interest of said warrant was and is, at the time of adjudication, in the heirs of said Jeremiah Bullock, and is not claimed directly or indirectly by any other person; and that the said Wm. Hill under law had power to issue said warrant.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted January 30th, 1840.]

NUMBER IV.

A Resolution directory to the Public Printer.

Resolved by the General Assembly of the State of Tennessee, That J. G. Harris, printer, be and he is hereby directed to deposite the printed report of Dr. Gerard Troost, Geologist, Mineralogist and Assayer, in the office of the Secretary of State, which shall be sent with the acts and journals, to each of the Senators an equal number in proportion to the number ordered to be printed by the Senate, and to each of the Representatives an equal number in proportion to the number ordered to be printed by the House of Representatives; and that a like course be pursued in regard to all the public documents ordered to be printed by either house and not delivered previous to the adjournment of this General Assembly.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted January 30th, 1840.]

NUMBER V.

A Resolution directory to the Register of the Western District.

Resolved by the General Assembly of the State of Tennessee, That it shall be the duty of the Register of the Western District to issue grants to the proper owners upon all entries founded upon good and valid warrants, where the warrants have been lost or destroyed by time or accident, upon the claimants thereof making satisfactory proof before said Register (who is hereby authorized to administer an oath or oaths for that purpose) that said entries are founded upon good and valid warrants, and that said warrants have been lost or destroyed by time or accident, and that when lost or destroyed they had written on the face of each satisfied or appropriated, and that said warrant or warrants have not been appropriated or satisfied by entering the same upon any other lands than those for which he, she or they may obtain a grant under the provisions of this resolution.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted November 28th, 1839.]

NUMBER VI.

A Resolution directory to the several entry takers south and west of the Congressional reservation line.

Resolved by the General Assembly of the State of Tennessee, That the entry takers of the different land offices south and west of the Congressional reservation line be required to receive entries on all land warrants authorized to be issued by the present General Assembly under the same rules and restrictions as warrants were entered under the act of 1835 and 1836, and such other warrants as have heretofore been adjudicated and not entered.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted January 31st, 1840.]

NUMBER VII.

A Resolution authorizing the Secretary of State to sign certain grants.

WHEREAS, grants now in the office of the Secretary of State have been signed by Newton Cannon, former Governor of Tennessee, and during his term of service not countersigned by the Secretary of State and sealed by the seal of the State; therefore,

Resolved by the General Assembly of the State of Tennessee, That the present Secretary of State be directed to countersign and seal any grant in his office, and affix the seal of the State to the same, which has been signed by Newton Cannon, former Governor of this State, and during his term of service not signed and sealed by the then acting Secretary of State: *Provided*, the grants so to be signed by the Secretary of State shall have been in the office of the Secretary, and shall be in the office and actually signed by the said Newton Cannon;

AND WHEREAS, many grants have been issued by the registers of this State, and before the same were signed by the Governor and countersigned and sealed by the Secretary of State, have been lost, destroyed or mislaid; and whereas, the registers by law are required when grants are issued by them, to note upon their register the dates, numbers, quantity of such grants; and as such grantee cannot obtain a legal title to such lands, wherefore, for remedy thereof,

Resolved, That the registers of this State are directed, upon the affidavit of any grantee of the loss or destruction of any grant issued in his or her favor by any of the registers of this State, before the same was signed by the Governor and signed and sealed by the Secretary of State, to issue a duplicate grant for the same quantity of acres and of the same date and number of the original grant as the same shall appear from his register; and the Governor is directed to sign and the Secretary of State to countersign and seal the same.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted February 1st, 1840.]

NUMBER VIII.

A Joint Resolution for the relief of the securities of Benjamin S. Mabry, late sheriff of Wilson county.

Resolved by the General Assembly of the State of Tennessee, That the Treasurer, upon the warrant of the Comptroller of the Treasury, is hereby authorized and required to take the notes of the securities of Benjamin S. Mabry, late sheriff of Wilson county, in two equal annual payments, payable in the Bank of Tennessee at Nashville, with good

and sufficient security, with interest from the date, for the amount of their liabilities to the State on account of said Benjamin S. Mabry.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted January 23d, 1840.]

NUMBER IX.

▲ Resolution directory to Samuel B. Rogers, attorney for the State.

Resolved by the General Assembly of the State of Tennessee, That Samuel R. Rogers, the attorney for the State in the suit of the bank against James Berry and others, in the Blount circuit court, be, and he is hereby authorized and empowered to compromise and adjust, for and on behalf of the State the said matters of controversy in said suit, and to accept of and from the said James Berry and others, his securities, in satisfaction of said cause of action, the same of two hundred and fifty dollars: Provided, the said James Berry and others shall and do pay all costs that have accrued or may accrue upon said suit.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted January 18th, 1840.]

NUMBER X.

▲ Joint resolution directory to the Secretary of State.

WHEREAS, by a decision of the supreme court of the State of Tennessee, it was decreed that William Polk, Sr., deceased, the heirs of George Dougherty, and the heirs of Martin Armstrong were jointly interested in a claim, upon which, since the passing of said decree, a warrant has been issued for two thousand three hundred and seventy-two acres, by Samuel G. Smith, late commissioner and Secretary of State, dated on the first day of December, 1832, No. 3110, and by mistake or accident said warrant has been issued in the name of the heirs of George Dougherty alone; and it appearing, that by said decree, that the parties under said decree were entitled in the following proportions, to wit: Polk to one thousand seven hundred and twenty acres; heirs of Dougherty two hundred and twenty-nine acres two roods thirteen and one-seventh poles; the heirs of Armstrong four hundred and twenty-one acres two roods thirty and two-ninth poles; and whereas, it is made to appear

that the said heirs of Dougherty are non-residents and dispersed, so that an assignment cannot be obtained, to enable the other owners to locate or sell their respective shares; for remedy whereof,

Resolved by the General Assembly of the State of Tennessee, That the Secretary of State be, and he is hereby authorized to receive and cancel said warrant, No. 3110, and issue other certificates, according to the proportions fixed by the decree of the supreme court aforesaid, for their respective portions in their own names respectively.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted January 23rd, 1840.]

NUMBER XI.

A Resolution removing the seat of government from the city of Nashville to the town of Murfreesborough, in the county of Rutherford.

Resolved by the General Assembly of the State of Tennessee, That the General Assembly when it adjourns without day, its present session, will adjourn to meet at Murfreesborough, in the county of Rutherford.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted January 29th, 1840.]

NUMBER XII.

A Resolution directory to Edmund W. Tipton or the entry taker of Tipton county.

Resolved by the General Assembly of the State of Tennessee, That Edmund W. Tipton, the late surveyor general of the eleventh district in the State of Tennessee, or the entry taker of Tipton county, either of them are hereby authorized to fill any blanks which was neglected or overlooked in the location of entries as to the number of warrants in the classing of the office of the ~~eleventh~~ district in the State of Tennessee.

Be it further resolved, That the register of the Western District is hereby authorized to issue grants upon said entries, upon the production of the *bona fide* land warrants, when said entries are thus legalized: *Provided also*, that said entries and grants shall not interfere with the claims of any other entry subsequently made: *and provided further*, that said Tipton shall, before filling such blanks, make affidavit, which shall be filed in the surveyor's office, that such entries were *bona fide*

made upon good and valid warrants filed in his office at the time of the entry.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,

Adopted January 27th, 1840.]

Speaker of the Senate.

NUMBER XIII.

A Resolution referring grant, No. 62, to Secretary of State for adjudication.

Resolved by the General Assembly of the State of Tennessee, That grant No. 62, from the State of North Carolina to Theophilus Hunter, with its accompanying documents, be referred to the Secretary of State for adjudication, and if it shall appear that said grant or any part thereof has been interfered with and lost by better title, then it shall be the duty of said Secretary to issue to Thomas O. Hunter, the legal heir and representative of the said Theophilus Hunter, a duplicate warrant or certificate for the number of acres so interfered with and lost.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,

Adopted January 30th, 1840.]

Speaker of the Senate.

NUMBER XIV.

A Resolution instructing our Senators and requesting our Representatives in Congress to use their exertions to procure the passage of a law in relation to vacant lands.

Resolved by the General Assembly of the State of Tennessee, That our Senators in Congress be instructed and our Representatives requested to use their most earnest exertions to procure the passage of a law authorizing the State of Tennessee to dispose of the vacant lands lying south and west of the Congressional reservation line; and that the Governor be required to transmit a copy of this resolution to each of said Senators and Representatives.

JONAS E. THOMAS,
Speaker of the House of Representatives.

L. H. COE,

Adopted January 30th, 1840.]

Speaker of the Senate.

NUMBER XV.

A Resolution referring grant No. 3366, for adjudication.

Resolved by the General Assembly of the State of Tennessee, That in all cases where any person or persons have entered good and valid land warrants which have been heretofore adjudicated upon lands supposed to be vacant, south and west of the Congressional reservation line, which entries have been lost by the interference of older and better title, it shall be the duty of the Secretary of State, acting as commissioner of land claims, upon proof thereof being made before him, to issue to such person or persons, a certificate warrant or warrants for the number of acres he, she or they may have lost by the interference of an older and better title as aforesaid.

JONAS E. THOMAS,

Speaker of the House of Representatives.

L. H. COE,

Speaker of the Senate.

Adopted January 31st, 1840.]

AMOUNT OF RECEIPTS AND EXPENDITURES OF THE

RECEIPTS.		
From clerks of the county courts,	131,922 20	
From clerks of the circuit courts,	16,774 47	
From clerks of the chancery courts,	1,341 33	
From clerks of the supreme court,	1,286 78	
From sheriffs,	113,506 21	
		264,830 99
Interest on United States' surplus deposited in Union Bank,	39,430 82	
Interest on United States' surplus deposited in Planters Bank,	31,452 34	
Interest on United States' surplus deposited in Memphis Bank,	863 66	
Yeatman, Woods & Co. Banking privilege for 1837 and 1838,	1,000 00	
Life and Trust Insurance Company, bonus of 1838,	750 00	
Interest on United States' deposits in Memphis Bank to July, 1838,	1,023 93	
Interest on United States' deposits in Union Bank to January, 1839,	21,246 62	
Interest on United States' deposits in Planters Bank to January, 1839,	18,233 22	
Marine and Fire Insurance Company, bonus of 1838,	750 00	
Interest on United States' deposits in Memphis Bank to January, 1839,	1,038 40	
Interest on United States' deposits in Union Bank to July 1, 1839,	10,610 28	
Interest on United States' deposits in Planters Bank to July 1, 1839,	9,116 61	
Interest on United States' deposits in Memphis Bank to July 1, 1839,	518 10	
Bank of Tennessee, dividend for school fund 1839,	100,000 00	
Bank of Tennessee, dividend for Academies,	18,000 00	
From Albert M. Lea, surplus on hand as chief engineer of Central rail road,	663 66	
" C. C. Abernathy, costs refunded, clerk Giles circuit court,	20 00	
" John Trimble, a forfeited recognizance collected from Owen in Williamson county,	4,000 00	
		269,089 74
Total amount received,		533,920 73
Amount on hand October 1, 1837,		75,437 31
		609,358 04

PUBLIC MONEY FROM OCT. 1, 1837, TO OCT. 1, 1839.

EXPENDITURES.		
For transporting convicts to the Penitentiary,		6,129 92
Wolf scalps,		1,318 00
Costs of criminal prosecutions,		45,485 36
Judiciary,—viz: Salaries of supreme court judges,	12,150 00	
“ chancellors,	9,750 00	
“ circuit court judges,	41,465 08	
“ attorneys,	5,600 09	
Executive expense;		68,665 17
Legislative “		17,558 00
Internal Improvements,		68,343 86
Geology,		3,163 03
Lunatic Hospital,		1,976 00
Memphis Hospital;		17,500 00
Public printing,		5,000 00
County commissioners,		9,901 15
Tax lists,		60 00
Common school fund,		2,232 50
Survey of Ocoee district,		113,926 42
Transportation of public arms;		11,063 50
Bank of Tennessee,		9 00
Yerger's Reports;		1,500 00
Meigs' Reports,		1,971 37
Sinking fund,		93 33
Union Bank,		97,145 74
Colonization Society,		2,543 50
Caruthers and Nicholson's digest,		380 00
		11,004 00
		487,270 31
Miscellaneous disbursements, viz:		
For Amos Grigsby, a forfeited recognizance refunded him,		975 00
E. C. Crist, running county lines,		5 50
Jona. T. Bradley, sheriff of White, tax refunded,		18 00
Daniel Fox, annuity of 1837,		40 00
Austin Miller, State line commissioner,		296 00
John D. Graham, State line commissioner and surveyor,		1,234 00
Wm. E. Anderson, attorney in Bank suit,		500 00
James Wear, Hiwassee purchaser, refunded,		166 50
James Bradford, sheriff, tax releases—Jefferson,		13 25
Robert Loyd, “ “ Grainger,		28 63
Daniel Fox, annuity of 1838,		40 00
Payne and Porter, internal improvement contract,		999 00
John W. Needham, sheriff, Gibson, special act,		450 00
Sam. Callahan, sheriff, Overton, tax releases,		49 33
Wm. B. Foster, apprehending a fugitive,		300 00
Wm. P. Brooks, “ “		350 00
		5,488 29
Amount in the Treasury, October 1, 1839;		492,758 60
		116,599 43
		609,358 03

DANIEL GRAHAM,
Comptroller of the Treasury:

I HAVE carefully examined the foregoing Acts and Resolutions, and find them to be true copies of the originals now on file in my office.

JNO. S. YOUNG,
Secretary of State.

INDEX.

A

Attorney General—lawful for him to file his bill on the part of the State, c 1, s 4	3
Act of 1837 establishing DeKalb county, c 2, s 1,	7
Administration of justice, c 2, s 3,	8
Additional civil district, c 7, s 1	15
Administration of justice, Powell county, c 15, s 6,	27
An act to authorize James Vaughn and James Ghormley to open and keep up a turnpike road c 17,	31
An act to incorporate a turnpike and bridge company from Johnsville across the Reel-foot lake to the Mississippi river, c 18,	33
An act to incorporate the inhabitants of the town of Ashport, c 19,	35
An act to incorporate the Clarksville Marine Fire Insurance and Life and Trust company, c 20	37
Ashland Academy—an act to incorporate the trustees, c 25	47
disposal of real estate, c 25, s 2	48
An act to provide for the probate and registration of deeds and other instru- ments, c 26	48
Affidavits, c 26, s 4	49
Acknowledgment of deeds, c 26, s 5	49
An act for the relief of A. M. Rogers, c 27	52
An act for the relief of Erby Boyd, c 31	56
An act to establish the town of Chattanooga, in the county of Hamilton, and to incorporate the inhabitants thereof, c 32,	57
An act to authorize aliens to hold, convey, &c. c 35	63
aliens privileges, 35, s 1—heirs, c 35, s 2	63
may sell estates, &c. c 35, s 3	63
taxes, c 35, s 4	64
An act to amend the law in relation to the appointment of deputy surveyors, c 37	65
Anderson academy, c 67, s 5	160
Academy monies, c 102	192
Athens—an act to incorporate, c 111	201
Administrators—to amend the law in relation to, c 131,	219
Arkwright Manufacturing company, c 137, s 10	227
Academy—Van Buren, c 158, s 1—Mount Cumberland, c 158, s 4	250
Ocoee, c 158, s 8—Lawrenceburg, c 158, s 9	251
Haywood, c 158, s 11	251

B

<i>Bona fide</i> payments, c 1, s 10	5
Bonds to be deposited in bank—become due, &c. c 1, s 12	6
Boundaries of DeKalb county, c 2, s 2	7
Bond and oath of commissioners, c 2, s 11	10
Boundaries of Polk county, c 10, s 2	17
Bonds of commissioners, Polk county, c 10, s 11	20
Boundary lines of Powell county, c 15, s 16	30
Boundaries of Chatahoochee, c 32, s 1	57
Bersheba Chalybeate springs—an act to incorporate, c 34	61
division of shares, c 34, s 1—body politic, s 2	61
corporate powers, c 34, s 2—organization, s 4	61
present owners, c 34, s 5—quorum, s 6	92
Bloomingdale Medicinal springs, c 34, s 7	62
Blount and Sevier—dividing line, c 36, s 1	64
county surveyors to make the line, c 36, s 2	64
Branch of the Bank of Tennessee at Sparta, c 69	152
Brokers—an act to increase tax, c 88	173
Bean Station turnpike road, c 92—commissioners, s 1	176
gate keeper's duty c 92, s 5—overseer's duty, s 6	176
Bank of Tennessee and branches, c 96—salaries of officers, s 1	184
number of officers, c 96, s 2	185
Benton county circuit court, c 108, s 2	199
Big Pigeon river—citizens to build dams across, c 110	200
Blount county court to make an allowance to James Glass, c 128	213
Bank of Tennessee—an act for the collection of demands due the State or Bank, c 139	230
Benton county—time of holding court, c 140	231
Bedford county internal improvement fund, c 143	236
trustees shall receive monies, c 143, s 1	236
trustees shall give bonds, c 143, s 3	236
Bank of Tennessee—an act to amend an act chartering, c 148	241
directors, c 148, s 1—branch at Sparta, s 2	241
branch at Athens, c 148, s 2	241

C

Chancellor authorized to issue injunctions, appoint receivers, grant orders and process, c 1, s 4	3
Commissioner's duty to investigate the affairs and accounts and report to the Governor, c 1, s 4	3
Commissioners to certify, &c. c 1 s 10	5
County court to appoint commissioners, c 2, s 7	10
Commissioners to sell lots in DeKalb county, c 2, s 8	10
Courts of DeKalb, c 2, s 14	11
Circuit court of Sevier county, c 5, s 1	13
Circuit court of Cocke, c 5, s 2	13
Commissioners for holding elections in Polk county, c 10, s 5	19
duty—Polk county, c 10, s 13	21
Civil districts—Powell county, c 15, s 14	30
Clarksville Marine Fire Insurance and Trust company, c 20	31
capital stock, c 20, s 1	37
opening of books, c 20, s 2—power of the corporation, s 3	38
security of stock, c 20, s 4	38
insurance, c 20, s 5—Investments, s 6—management, s 7	39
elections, c 20, s 8	39

president, c 20, s 9—power of issue, s 10	40
stock as personal property, c 20, s 11—half yearly statements, s 12	40
forfeiture of charter, c 20, s 23	42
Chancery and circuit courts—an act to regulate the time of holding, c 21	42
district at Livingston, c 21 s 1	42
Carthage, Lebanon, Murfreesboro, Shelbyville, c 21 s 1	43
Courts—district, place and time of holding, c 21, s 1	43
Circuit courts—when and where held, c 21, s 2	43
13th circuit—when and where held c 21, s 3	43
Chancery clerks appointed by chancellor, c 21 s 8	44
Chancery causes in Sevier, c 21, 14	45
Circuit courts for the 10th judicial circuit, c 21, s 15	45
11th judicial circuit, c 21, s 16	45
Courts—first term, when held, c 21, s 18	45
Chattanooga boundaries, c 32, s 1	57
body politic, c 32, s 2—corporate powers, s 3	57
election of aldermen, c 32, s 6—vacancies, s 6	57
Constables' fees, c 32, s 11	60
Chancery courts, c 33	60
Goffee county Medicinal springs, c 34, s 8	62
stockholders, c 34, s 9	62
Clerk of county court—duty, c 38, s 15	68
Clerks of the courts—their duty, c 42, s 2	79
Citizenship—an act to restore certain persons to the rights of, &c. c 57	128
County courts—their duty, c 63, s 4	147
Chancery court at Lewisburg, c 64	199
Cannon, c 64, s 3—Montgomery, s 4	199
Charlotte—duty of clerk and master of, c 66, s 6	150
where and by whom held, c 66, s 7	150
Covington academy, c 77, s 5	160
County courts of Bradley and Polk, c 81	165
Conasauga river declared navigable, c 84	169
Clerks of courts—failure to pay over money collected by them, c 85	169
Cumberland and Stone's river turnpike company, c 99	187
Columbia, Pulaski and Elkton turnpike, c 99, s 5	188
Columbia Central turnpike, c 99, s 6	188
County roads, c 100,	189
Criminal cases, c 105	198
Chancellor of Western division to hold court in Sommerville, c 108	199
Circuit court for Benton county, c 108, s 2	199
Cocke county—citizens to build dams across Big Pigeon, c 110,	200
Common school monies of Davidson, Rutherford and Bedford counties, c 122	212
County court of Blount county to make an allowance to James Glass, c 124	213
Collins, Brice A.—an act to refund to him twenty-six dollars and fifty cents,	
c 133	220
Clarksville—limits, c 134, s 10	221
powers of aldermen, c 134, s 11	122
County court of Lincoln county—authorized to grant privileges to build mills,	
&c. c 135	222
Circuit court—special terms, judicial, c 136	224
Character of special term, c 136, s 3	224
Court—abolishment of mayor's, c 136, s 8	224
Courts—change the time of holding court for the counties of Carroll, Ben-	
ton, Perry, Hardin, Wayne and Lawrence, c 40	231
Collection of demands due the State or the Bank of Tennessee, c 139	230
Carroll county—time of holding court, c 140	231
Collectors of the revenue—appointment, c 142	235
duties, c 144	236
Census of the free white male inhabitants of the State of Tennessee, c 147	239

commissioner's duty, c 147, s 1	239
clerk of counties' duty, c 147, s 2--Secretary of State's duty, s 3	239
failure to appoint commissioners, c 147, s 4	239
pay of commissioners, c 147, s 5	239
Circuit courts--the power to restore certain persons to the rights of citizenship, c 151	245
Collection of the public revenue from delinquent officers, c 160	253
duty of judges, c 160, s 1--Bonds, s 2	253
Comptroller's duty, c 160, s 3--records, s 4--clerk's revenue bonds, s 5	254
amount of revenue bonds, c 160, s 6	255
Comptroller's entries, &c. c 160, s 6	256

D

Dissolution of co-partnership in unfinished roads, c 1, s 3	2
Duty of district attorneys, c 1, s 5	3
Deficit interest of bonds, c 1, s 14	6
Dividing lines of Polk county, c 10, s 18	22
Deeds--proving of, c 26, s 1	48
executed out of the United States, c 26, s 2	48
previously registered, c 26, s 8	50
registered more than thirty years, c 26, s 10	51
Debtors--non-resident, c 43	80
Descents and distributions of property, c 48	83
trust vested in parents, c 48, s 3	83
Divorce--an act for the relief of females, c 54,	90
Duck river Steam Navigation Company, c 93	177
body corporate and politic, c 93, s 1,--corporate powers, s 2	177
owners of stock, c 93, s 3,--directors, s 4,	177
president and other officers, c 93, s 5,	177
rights of corporation, c 93, s 7--damages, s 9	178
obstructions and injuries, c 93, s 10--capital stock, s 11	178
election of directors, c 93, s 12--stock transferrable, s 13	179
commissioners, c 93, s 14--opening of books, s 15	179
Dyersburg--an act to confer privileges on the commissioners, c 132	219
Davidson county--internal improvement fund, c 143	235
trustees shall receive monies, c 148, s 1	235
trustees shall give bonds, c 143, s 3	236
Directors of State, term of service, c 154, s 1	247
Delinquent officers, c 160,	253

E

Entering of lands, c 8	16
Election of civil officers Polk county, c 10, s 16	21
Enterers--time allowed them, c 12, s 1	24
Elections in fractions, c 15, s 4	27
Enforcing payment of taxes, c 23	46
Exempt--an act to exempt persons disabled by sickness or other causes from working on public roads, c 24	47
an act to exempt persons from military duty, c 51	89
Electors for President and Vice President of the United States, c 79	162
choice of electors, c 79, s 1--electoral districts, s 2	162
number of electors, c 79, s 3--duty of sheriffs, s 4	162
Election--returns, c 79 s 5,	163
conductors of, c 79, s 6--duty of conductors of, s 7	163
Electors--meeting of, c 79, s 8	164
judges of election, c 79, s 11,	164

Entry of lands in the Ocoee district, c 83	166
East Tennessee University, c 98,	186
Explanation of act passed January 17, 1839, chapter 109, c 121	211
Entry taker of Ocoee district, c 123,	213
Enterers of land in Ocoee district, c 127	215
Executors and administrators—an act to amend the law in relation to, c 131	219

F

Fraudulency—Governor's duty, &c., c 1, s 6	4
Failure or refusal to surrender charter, c 1, s 9	4
Field officers of DeKalb—first court, when held, &c., c 21, s 13	45
J. W. Fowler—an act for the relief of, c 53	90
Frauds—an act to prevent in selling land, c 128	215
Fees of printers and clerks, c 144, s 4	237
Franklin and Columbia turnpike road, c 146	238

G

Governor—repeal of laws authorizing him to subscribe for stock, c 1, s 1	1
duty to appoint commissioners to inspect, c 1, s 10	4
Grants—issuance of in certain cases, c 45	82
Gallatin—corporate limits, c 86	170
Geologist, Mineralogist and Assayer of the State of Tennessee, c 95	183
Glass, James—an allowance to be made to him by Blount county court, c 124	213
Grants—North Carolina and Tennessee, c 161	258
General Assembly—an act making appropriation to defray expenses of, c 162	258

H

Haywood chancery court, c 21, s 16,	45
Holman and Hollingsworth—an act to provide for the payment of twenty five dollars to them, c 21, s 4	46
Hamilton county—an act to establish seat of justice, c 50	86
duty of officers holding elections, c 50, s 1	86
permanent seat of justice, c 50, s 2	86
commissioners to select site, c 50, s 3	86
laying off of town, c 50, s 4—sale of lots, s 5	87
proceeds of sales c 50, s 6—commissioners' bonds, s 7	87
public monies, c 50, s 8	87
vacancies, c 50, s 9—tax, s 10—election returns, s 11—court, s 12	88
Hartsville—an act to incorporate the town of, c 65	148
extension of limits, c 65, s 1—revision of laws, s 2	148
corporate limits, c 65, s 3	148
Hampshire—an act to incorporate the citizens, c 68	151
limits, c 68, s 1—charter, c 68, s 2	151
additional justice of the peace, c 68, s 3	152
Hiwassee district—further time for obtaining grants, c 74	157
Hartsville—an act to incorporate the Central female academy, c 89	173
body politic, c 89, s 1	173
election of trustees, c 89, s 2—individual property, s 4—shares, s 6	174
government, c 89, s 7	175

Higginbotham's turnpike across Cumberland mountain, c 106	198
Hamilton county court to permit building of mills, c 112	201
Hospital,	120, 208
Hiwassee district—an act for the relief of purchasers of reservations, c 130	215
Hardin county—time of holding court, c 140	231
Haywood academy, c 158, s 11	251

I

Issuance of bonds by the Governor, c 1, s 11	6
Internal improvement fund, c 38, s 14	68
Imprisonment for debt, c 40	77
discharge of prisoners, c 40, s 1	77
Iron works—extending privileges to owners, c 129	216
Internal improvement fund of the counties of Bedford, Rutherford and Davidson, c 143	235

J

Judge to remove prisoners, c 11, s 3	23
Jail—to pay guard for conveying person to, c 103	194

K

Knoxville—repeal of act of 1815, c 55	91
---------------------------------------	----

L

Location of seat for justice for DeKalb county, c 2, s 6	9
Limits of corporation of Fayetteville, c 9, s 1	17
Lawrence county—separate district, c 21, s 11	44
an act passed 1838 relative to the internal improvement, c 29	55
Levy on real estate, c 32, s 12	60
Lebanon and Cumberland turnpike, c 99, s 4	188
Lagrange and Memphis rail road company, c 101,	190
Lincoln county—schools, c 104	195
commissioners, c 104, s 2—election, s 3	195
common school districts, c 104, s 4	196
Lunatic Hospital, c 120	208
trustees c 120, s 1—physician, s 2—meeting of trustees, s 3	208
regulations, c 120, s 4	208
treasurer of the board, c 120, s 5	209
keeper and matron, c 120, s 6	209
reception of paupers, c 120, s 7	209
duty of circuit judges, c 120, s 8	209
services of sheriffs, c 120, s 9	210
private patients, c 120, s 11	210
discharge of patients, c 120, s 12	210
physician's salary, c 120, s 14	210
keepers of penitentiary, duty of, c 120, s 15	211
appropriations, c 120, s 16	211
opening of hospital, c 120, s 17	211

Lands —an act to prevent frauds in entering and selling, c 128	215
reservations in Hiwassee district, an act for the relief of purchasers, &c. c 130	217
Lincoln county court authorized to grant privileges to build mills, c 135	222
Lands —school lands in the Ocoee district to be appropriated to the counties of Meigs, Hamilton and Marion, c 138	228
Lawrence county —time of holding court, c 140	231
Lawrenceburg academy , c 158, s 9	251

M

Murfreesboro' Mayor's court , c 4, s 1	13
Militia —of DeKalb, c 2, s 16	11
of Powell county, c 15, s 15	30
Merchants Insurance and Trust company , c 60	134
capital stock, c 60, s 1—commissioners, s 1	135
opening of books, c 60, s 2—shares, s 2—annual election, s 3	135
corporate power, c 60, s 4—insurance, s 5	135
Memphis company, c 60, s 7—opening of books, s 8	136
single risks, c 60, s 9—organization, s 10—charter, s 11	136
Mills —owners of, enjoyment of rights, c 67	150
Memphis female academy , c 77	159
body politic and corporate, c 76, s 1—power of trustees, s 2	159
Mead, Samuel B. —granting time to complete his road, c 115	204
Memphis Manufacturing company , c 137	225
body politic, c 137, s 1—capital stock, s 2—directors, s 3	225
property holden by company, c 137, s 4	226
opening of books, c 137, s 5—stockholders, s 6	226
Planters Flour and Grain company, c 137, s 7	226
capital stock, c 137, s 8	226
rules and laws, c 137, s 9	227
Manufacturing company —Arkwright, c 137, s 10	227
capital stock, c 137, s 11	227
stockholders, c 137, s 12—powers of company, s 13	227
opening of books, c 137, s 14	227
stockholders, c 137, s 15—restrictions, s 16	228
reservations, c 137, s 17	228
Memphis —an act to amend the acts incorporating the town of Memphis, c 155	248
mayor and aldermen, c 155, s 2	248
Marchbanks' turnpike road , c 156, s 1	249
extension of road, c 156, s 2—toll, s 2	249
Jesse Lincoln's turnpike road, c 156	249
Mount Cumberland Academy , c 158, s 4	250
trustees, c 158, s 6	250
location, c 158, s 7,—liabilities, s 10	251
MILITIA LAW, CHAPTER 56	91
Age at which a person shall be subject to perform military duty, s 1	91
Arms—public—duty of the major generals of the 1st and 4th divisions, s 41	105
public—expenses of, how provided for, s 42	105
Adjutant's duty, s 65	110
Appeal—right of, s 70	111
Adjutant general of the State—how appointed, s 46	106
Authority of commandants of regiments, s 83	114

Adjutant general—office of, s 93.	116
Absentees from duty, s 97	117
Arms, s 100, 143	118, 126
Appropriation of fines, s 118	121
Actual service, s 126	123
Adjutants of regiments—duties of, s 133	124
Apprentices—law in relation to, s 134,	124
Arms of volunteers, s 135	124
Affidavit of delinquents, s 136	125
Arms—at Knoxville, s 143	126
at Jackson, s 145	126
expenses of removing of, s 146	126
Absentees—law in relation to, s 147	126
Brigades—State divided into, s 25	100
boundaries of, s 26	100
divided into divisions, s 25	100
Brigadier general—additional duty of, s 27	101
Brigades—how commanded, s 47	106
Brigade—surgeon, how appointed, s 50	106
inspectors, duties of, s 48, 131	106, 124
majors, duties of, s 59-60,	108
Brigadier general may appoint judge advocate and provost martial, s 73	111
Brigade courts martial, s 77	112
By-laws of volunteers, s 113,	120
Brigadier generals—duty of, s 129	123
Companies—how to be commanded, s 2, 47	91, 106
how established, s 3	92
Corporals—how elected, s 3	92
Constables to hold elections for company officers, s 3	92
Commandants of regiments to certify election of company officers to Governor, s 4	9
Contested elections—how to be conducted and determined, s 4, 148	92, 127
Courts martial—to determine contested elections, s 4	92
how to be organized and conducted, s 4	93
Constables—duties of, s 23	98
Candidates contesting elections to file reasons, s 23,	99
Contested election of brigadier general—Governor to decide, s 28	102
Comptroller to be exempt from military duty, s 1	91
Clerks of courts to be exempt from military duty, s 1	91
Commissioners of common schools to be exempt from military duty, s 1	91
Candidates having the same number of votes—law in relation to, s 23	99
Company officers may hold courts martial, s 38	103
Companies failing to elect officers—law in relation to, s 39	104
Company lists—how to be furnished, s 39	104
Comptroller to settle with the major general of the 1st and 4th divisions for expenses incurred in the taking of public arms, s 42	105
Companies—volunteer—1st and 4th divisions, how armed, s 42	105
Commandants of companies to make annual returns, s 59	108
Colonel—duty of, s 59	108
Captains—duty of, s 62	109
Courts martial—annual—when held, s 68	110
general—how organized and conducted, s 74	112
division, brigade and regimental, s 77	112
proceedings of,	113
Complaints against commissioned officers, s 82	113
Commandants of regiments—authority of, s 83	114
Commissioned officers—rank of, s 91	115
Commandants—oath of, s 96	116
Credit of a tour of duty, s 98	1

Corps—volunteer—may be raised, s 101	
Company—withdrawal from, s 106, 125	123
Commissions, s 108, 121	119, 122
Cavalry, s 114	120
Cavalry—duty of commanders of, s 116	121
Company musters, s 122	122
Call—Governor's, s 127	123
Cavalry—judge advocate of, s 130	123
Commandants of regiments to certify to county courts, s 137	125
Cavalry courts martial, s 139	125
Costs—regiments taxed with in certain cases, s 149	127
Divisions—boundaries of, s 25	100
how to be commanded, s 26, 27, 46	100, 101, 106
Discharges, s 56	108
Disobedience—how punished, s 61, 74	109, 112
Drum majors—duty of, s 64	110
Division of regiments, s 71	111
Division courts martial, s 76	112
Duty of commanders of cavalry, s 116	121
Delinquents—affidavit of, s 136	125
Distribution of the militia act, s 154	128
Election—of company officers, how and when held, s 3	92
of regimental and battalion officers, how to be conducted, s 23	98-99
contested, how to be conducted, s 23	99
Exercise on muster days, s 66	110
Ensigns' duty, s 69	110
Execution for fines, s 69, 110, 139	111, 119, 125
Exempts—enrolling of, s 89	115
Equipments exempt from execution, s 100	118
Enrollments, s 104, 119	118, 121
Equipments of cavalry, s 115	121
Fines on field officers, s 33	102
Ferriage and tolls, s 31	102
Fines for failing to attend musters and drills, s 53, 141	102-103, 126
Field officers—how elected, and their duties, s 23, 63, 128	98, 109, 123
Fife major—duty of, s 64	110
Fines—appropriation of, s 95, 110, 113	116, 119, 121
executions for, s 139	125
Gates, toll—keepers of to be exempt from military duty, s 2	92
Governor commander-in-chief of militia, s 46	106
Governor's staff, s 46	106
Governor may appoint judge advocate and provost martial, s 68	111
General courts martial, s 75	112
Government requisitions, s 84	114
Governor's call, s 127	123
Inspector general—how appointed, s 48	106
assistant—how appointed, s 49	106
Invasion, s 87	114
Insurrection, s 87	114
Infantry—light—how distinguished—riflemen's uniform, s 105	119
Jailors to be exempt from military duty, s 1	91
Judges—to be exempt from military duty, s 1	91
of elections—how appointed, and their duties, s 2	92
and clerks to certify elections to commandants, s 2	92
Judge advocate—duty of and how appointed—to give security and take	
oath, s 35, 53, 139	103, 107, 125
of cavalry, s 130	123
Jackson—arms at, s 146	126
Knoxville—arms at, s 148	126

Lieutenants—duty of, s 67	110
Ministers of the gospel to be exempt from military duty, s 1	91
Musters—battalion—when to be held, s 6	93
places of—how changed or removed, s 8	94
Militia divided into regiments, s 9	94, 95
Musters—regimental—when to be held, &c. s 9, 10, 21,	95, 96, 97, 98, 121
Majors—how elected, and their duties, s 23, 60	98, 108
Major generals to hold their offices, s 28	102
Militia—Obion, s 37	103
Musters—brigade—when to be held, s 11, 12-22	95, 96, 97, 98
Major generals—how elected, s 28	101
1st and 4th divisions, duty in relation to arms, s 41	105
Music, s 47	106
Major general may appoint assistant inspector generals, s 49	106
Muster—hour of, s 52	107
Major general may appoint judge advocate and provost martial, s 73	111
Marching orders, s 88	115
Musters—company, s 122	122
New Regiments, s 99, 112	117, 120
Officers, field—Fentress county, duties of, s 7	94
how elected, and their duty, s 23	98, 109
to attend musters, s 24	99
to be armed, s 24	99
may act upon sheriff's certificate, s 29	102
uniform of, s 30	102
Officers, battalion—failing to attend court martial, s 34	103
Obion militia within certain bounds, s 37	103
Orderly sergeants—law in relation to, s 39	105
Officers of court martial—how appointed, s 73	111
Oath of judge advocate, s 81	113
Officers, commissioned—complaints against, s 82	113
Orders—marching, s 88	116
Office of the adjutant general of the State, s 93	116
Office quarter master general of the State, s 94	116
Oath of commandants, s 96	116
Post masters to be exempt from military duty, s 1	91
Provost martial—how appointed, to enter into bond, &c. s 36, 151	103, 127
Quarter master generals—how appointed, s 47	106
office of, s 47	106
Religious denominations opposed to bearing arms, s 1	91
Regiments—how divided, s 2	92
how commanded, s 22, 47	98, 106
how equalized, s 45	106
Returns, regimental—how made, s 57	106
Regiments—division of, s 71	111
Rights of volunteers, s 72	111
Regimental courts martial, s 78	112
Requisitions—government, s 84	114
Rank of commissioned officers, s 91	115
Regiments—new, s 99, 112	117, 120
adjutants, their duty, s 132	124
taxed with costs in certain cases, s 149	127
Secretary of State shall be exempt from military duty, s 1	91
Sergeants—how elected, s 3	92
Sheriffs and constables failing to perform duty, s 32	102
Sergeants, orderly—law in relation to, s 39	105
Scott's Infantry Tactics, s 45	106
Surgeon, brigade—how appointed, s 50	106
Service—term of for the United States, s 90	115

Service—actual, s 126	120
Secretary of State's duty, s 155	128
Treasurer—State and county—to be exempt from military duty, s 1	91
Trials, s 79	112
Term of service for the United States, s 90	115
Tour of duty—credit for, s 98	117
Time allowed to equip, s 123	122
Uniform of field officers, s 30	102
Vacancies—in company offices, how filled, s 3	92
in regimental offices, how filled, s 23	98
of brigadier general, how filled, s 27	101
of major general, how filled, s 28	101, 102
Volunteer companies to have the State arms, s 44	105
Volunteers—rights of, s 72	111
Volunteer corps may be raised, s 101	118
Volunteers—to be armed, s 102, 135	118, 124
riflemen—to be raised, s 103	118
by-laws of, s 113	120
Withdrawal from company, s 106, 125	119, 123
Witnesses—to court martial may be subpoenaed, s 150	127
fine for not attending courts martial, s 152	127

N

Nashville and White's creek springs—turnpike company incorporated, c 116	205
powers and privileges, c 116, s 2,—capital stock, s 3	205
toll gates, c 116, s 5	205
Notaries public— explanation of law in relation to, c 125	214
Nashville—an act to abolish the Mayor's court, c 136—voters, s 4	224
North Carolina and Tennessee grants, c 161	257

O

Officers—civil and military, of DeKalb county, c 2, s 4	8
Opening of DeKalb county court, c 2, s 6	9
Offices of county court clerks c 3, s 1	12
Officers—civil and military, of Polk county, c 10, s 4	18
civil and military, of Powell county, c 15, s 7	28
Oaths of officers, c 32, s 9	59
Ocoee river navigable, c 44	81
mill dams, c 44, s 2	81
Ocoee district—correction of surveys, c 58	129
relief of persons who have made improvements on school sections, c 71	153
Obion river, c 109	200
county court to elect commissioners, c 109	200
Ocoee district—to encourage the manufacture of iron, c 113	202
vacant lands, c 113, s 1—right of preference, s 2	202
valuation of land, c 113, s 3—iron works, s 4—public sales, s 6	203
entry taker to correct mistakes and refund money, c 123	213
entries of land that the State cannot make titles to, c 127	215
school lands appropriated to the counties of Meigs, Hamilton and Marion, c 138	228
actions of ejectment, c 138, s 7	229

me heirs of the occupants in the district, c 15	247
entry taker's duty, c 156, s 3	249
Ocoee academy, c 158, s 8	251
liabilities, c 158, s 10	251

P

Pay of commissioners, c 1, s 13	6
Proceeds of sales of lots in DeKalb county, c 2, s 9	10
Public buildings, c 2, s 10	10
Public lots, c 2, s 13	11
Prison bounds, c 6, s 1	14
how laid off, c 6, s 2	14
Priority of entry, Ocoee district, c 8 s 1	15
Polk county, c 10, s 1	17
boundaries, c 10, s 2	17
administration of justice, c 10, s 3	18
county seat, c 10, s 7	20
public buildings, c 10, s 10	20
Powell county, c 15, s 1	25
boundaries, c 15, s 2	25
organization, c 15, s 3—commissioners, s 3	26
elections, persons to hold, c 15, s 8	28
proceeds of sale of lots, c 15, s 12	29
public buildings, c 15, s 13	29
Perryville and Lexington turnpike company—an act to charter, c 28	52
opening of books, c 28, s 1—capital stock, s 2	52
organization, c 28, s 3—width of road, s 3	53
valuation of land, c 28, s 5—damages, s 5	53
toll gates, c 28, s 6—rates of toll, s 7	53
refusal to pay toll, c 28, s 9—dividends, s 10	54
failure to keep in repair, c 28, s 11	54
forfeiture of charter, c 28, s 12	54
subscribers for stock, c 28, s 13—shares, s 15	54
Parents—trust vested in them, c 48, s 3	83
Penalty of sheriffs and constables, c 63	146
sheriffs' bonds, c 3, s 1—constables' bonds, s 2	146
failure to give bonds, c 63, s 3	146
Planters Bank—additional branches, c 70	153
refusal to pay specie, c 70, s 2	153
President and Vice President, choosing electors for, c 79	162
Public money—misapplication of, c 82	167
penalty, c 82, s 1	167
Penitentiary—profits of, c 97	185
Powell's Valley Male academy, c 98	186
trustees, c 98, s 2—rules and by-laws, s 3	186
Perryville—conferring additional authority on commissioners, c 118	207
Paint mountain turnpike company, c 126	214
extension of charter, c 126, s 1	214
Powell county taxes, c 129, s 3	216
Planters Flour and Grain company, c 137, s 7	226
capital stock, c 137, s 8—rules and laws, s 9	226
Perry county—time of holding court, c 140	231

Purdy, incorporation of, c 145, s 3	237
Public revenue, c 160	255

R

Release of the State by deed, c 1, s 2	2
Reduction of amount of capital stock, c 1, s 8	4
Robertson county circuit court, c 16, s 1	30
Roads—location, direction, &c. c 17, s 1, 2	31
construction, c 17, s 2	31
Repairs of roads, c 17, s 3	31
Registration of instruments, c 26, s 7	50
Register's duty, c 26, s 11	51
Recorder, treasurer and constable, c 32, s 8	59
Road from Newport to Sevierville, c 78	160
commissioners, c 78, s 1—their duty, s 2	160
overseer's duty, c 78, s 4—change of location, s 5	160
Repeal of act to attach a part of Perry county to the county of Wayne, c 80	165
Repeal of law declaring the little north fork of Forked Deer river navigable, c 90	176
Reservations of land in the Hiwassee district, c 130	217
Rutherford internal improvement fund, c 143	235
trustees shall receive monies, c 143, s 1	235
trustees shall give bonds, c 143, s 2	236
Revenue delinquents, c 160	253
Representatives and Senators—preamble and resolutions instructing them in relation to certain subjects,	261
Resolution instructing our Senators and requesting our Representatives in Congress,	261
Resolution directory to the Secretary of State,	264

S

Surrender of charters of internal improvement companies, c 1, s 2	1
Subscription of stock by the State in incorporated companies procured by fraud or mistake, c 1, s 4	2
Sheriff's duty of Cannon county, c 2, s 5	9
Surveyor general's duty of Ocoee district, c 13, s 1	24
Site for the seat of justice of Powell county, c 15, s 10	28
Sale of lots, c 15, s 11	29
Sheriffs—an act giving further time to former sheriffs to collect arrearages for taxes, c 23	46
State commissioners, c 26, s 3	49
Spencer, James—an act for the benefit of, c 30	56
Sevier and Blount, dividing line, c 36, s 1,	64
Schools—an act to re-enact and amend, common schools, c 38	65
superintendent's duty, c 38, s 1	65
apportionment of monies, c 38, s 2	65
defective returns, c 38, s 4	66
annual appropriation from banks, c 38, s 8	66
Comptroller's warrant to trustees, c 38, s 10	67
counties not using their school monies, c 38 s 13	7

funds insufficient to pay, c 38, s 17	68
fuel, c 38, s 18	69
Commissioners to lay off districts, c 38 s 20	69
June election, c 38, s 21	70
vacancies, c 38, s 23	70
scholars, c, 38 s 24	71
duty of commissioners, c 38, s 25	71
" district clerk, c 38, s 27	72
county court clerk, c 38, s 29	73
losses, c 38, s 31	73
county trustee c 38, s 32: commissioners accounts, c 38, s 33	73
false reports, c 38, s 36	74
an act to regulate the common school monies, c 39,	75
repeal of the law, c 39, s 1: duplicate receipts, c 39, s 2	75
duty of superintendent, c 39, s 3: duty of the bank, c 39, s 4	76
debtors to the fund, c 39, s 6: claims against, c 39, s 7	76
records, c 39, s 8: expenses, c 39, s 9	76
land taxes, c 39, s 10: legal advice, c 39, s 11	77
superintendent's bond, c 39, s 13,	77
Statutes and laws of other States—the manner in which they shall be received as evidence, c 45	81
Slaves—an act prohibiting them to act as free persons, c 47,	82
Scoggin, Richard G.—appropriation of money to, c 52	89
Settlers—south and west of the Congressional reservation line, c 52	144
lands surveyed, &c. c 52, s 1	144
reservations may be enlarged, c 52, s 2	144
entry of claims, c 52, s 3: county officers, c 53, s 4	144
act of 1837, c 52, s 5: privileges of occupancy, c 52, s 7	144
locations, c 52, s 8: occupants claims, s 9: unlawful entries, s 11	145
locations already made, c 52, s 12	146
Settlers on school sections, c 71,	153
State debt—an act for the reduction of, c 75	157
Stewart county—an act to attach a portion of, to the county of Hum- phreys, c 76,	158
bounds, c 76, s 1: civil officers: c 76, s 2	158
commissioners, c 76, s 3	158
election, c 76, s 4	159
Spring Hill Academy, c 77, s 3	160
Salt and Sugar—to prevent fraud, c 114	204
Stephens Henry—relief of, c 119	207
School, common—fund of the State, an act to pay out of the fund to B. A. Collins, c 133	220
School lands in district of Ocoee, appropriated to the counties of Meigs, Hamilton and Marion, c 138,	228
State—an act to provide for the collection of demands due the State or bank of Tennessee, c 136	230
Sommerville college—an act to incorporate, c 141	232
choice of trustees, c 144, s 2: power of trustees, c 141, s 3	232
public seal, c 141, s 4: officers of corporation, c 141, s 5	233
Sommerville—amendment of act to incorporate, c 145	237
Secretary of State, c 151,	245
directions to Secretary of State, c 151, s 1	245
State directors—term of service, c 154	247

Shelbyville, Winchester and Jasper turnpike company, c 159	25
Senators and representatives in Congress,	261
Secretary of State--resolution directory to,	264

T

Toll gate, c 17, s 4	32
Table of fees, c 17, s 5	32
Trustees of Ashland academy, c 25, s 1: their power, s 1	47
Taxes, non-payment of, c 32, s 10	59
Testimony of negroes, &c., c 41	78
Tobacco--justice may provide for inspection, c 49, s 1	84
warehouse, c 49, s 2: profits, s 3: election of inspectors, s 4	84
rates, c 49, s 5: duty of inspectors, s 6: change of brand, s 7	84
repeal of former law, c 49, s 10	84
Taxes and affidavits of tradesmen, c 64	147
benefits and penalties, c 64, s 2	147
Transfer of cases, c 66	150
Turnpike road--to authorize William Brown, Joseph Kimbrough and	
William K. Waddy to open, c 87	171
duty of company, c 87, s 2: commissioners, s 3	172
gate and tolls, c 87, s 4: forcible or secret passage, s 5	172
gate keeper, c 87, s 6: duty of commissioners, s 7	172
corporate rights, c 87, s 8	173
Turnpike bridges in the Western district, c 91	175
Turnpike company--Paint mountain, c 126	214
extension of charter, c 126, s 1	214
Taxes in Powell county, c 129, s 3	216
Turnpike road--authorizing Josiah M. Anderson, of Marion county, and	
Geo. W. Williams, of Hamilton county, to open, c 94	180
width of road, c 94, s 1: repairs, s 2	180
commissioners, c 94, s 3: commissioners' oath, s 4	181
damages, c 94, s 5: arbitrary passage of the gate, s 6	182
mails passing the gate, c 94, s 7	182
time allowed for completion, c 94, s 10	182
Turnpike from Spencer, c 94, s 14	183
Towns--an act to extend streets, alleys and margins of towns, c 134	220
Turnpike--Franklin and Columbia turnpike, c 146	238
Turnpike road in Warren and Marion counties, Allen White's, c 149	241
toll gate, c 149, s 1	242
commissioners and their duty, c 149, s 2	242
Turnpike road authorized to be opened--Moses Thompson, c 150	242
route of road, c 150, s 1	242
commissioners of road, c 150, s 2,	243
Wiley, Wilker and Adkisson's, c 150, s 4: width of road, s 5	243
commissioners, c 150, s 6: toll gate, s 7	243
forcible passage of gate, c 150, s 8	244
commissioner's duty, c 150, s 10	244
White's creek company, c 154, s 2: commissioners, s 2	247
commissioners' power, c 154, s 2	248
Jesse Lincoln's turnpike, c 156	249
Marchbanks' turnpike, c 156, s 1	249
extension of road, c 156, s 2: toll, s 2	249

Turnpike company—Shelbyville, Winchester and Jasper turnpike com- pany, c 159	251
Tennessee and North Carolina grants, c 161	258

U

Union of districts, c 38, s 16	68
Union College—an act to incorporate, c 72	155
site, c 72, s 1: body politic and corporate, s 2	155
capability of trustees, c 72, s 3: governed and controlled, s 4	155
constitution, c 72, s 5: meetings, s 7: appointment of trustees, s 9	156

V

Vacancies in the board of commissioners Polk county, c 10, s 14	21
Venue—change of, c 11, s 1	22
duty of the court changing, c 11, s 6	23
Van Buren—new county of, c 59, s 1,	130
boundaries, c 59, s 1: administration of justice, s 2	131
civil and military officers, c 59, s 3	131
places of voting, c 59, s 4: commissioners to select a site, s 5	132
sale of lots, c 59, s 7: court-house and jail, s 9	133
oath, bond, &c. of commissioners, c 59, s 10: public monies, s 11	133
chancery court, c 59, s 12: militia, s 13	134
re-marking county lines, c 59, s 14	134
Vanville rail road company,—commissioners of, c 61, s 1	137
corporate powers, c 61, s 1: capital stock, s 2	137
opening of books, c 61, s 3	137
subscriptions, c 61, s 4: election of directors, s 5: vacancies, s 6	138
general meeting, c 61, s 7: oaths of officers, s 8	139
unsubscribed shares, c 61, s 9: officers, how appointed, s 10	139
repairs, c 61, s 11	139
valuation of lands, c 61, s 12	140
power of president and directors, c 61, s 13	141
power of company, c 61, s 14: property, &c. s 15	142
cross roads, c 61, s 16: time allowed for constructing, s 17	142
transportation, c 61, s 18: protection, &c. s 19: tolls, s 20	143
dividends, c 61, s 21	143
Van Buren male academy—body politic, c 158, s 1	250
trustees authorized to elect officers, c 158, s 3: location, s 5	250

W

Williamsport academy—trustees of, c 25, s 4	48
Water passages, c 67, s 1: stopping of sloughs, c 67, s 2	150
Wolves—an act to encourage the killing of, in the county of Morgan, c 73	156
compensation for killing, c 73, s 2	156
Wolf river, Western District, c 107	199
Western division to hold court in Sommerville, c 108	199
Walden's ridge—an act for the benefit of persons subject to military duty, c 117	206
Wayne county—time of holding court, c 140	231
White, Allen—turnpike road, c 149	241

toll gate, c 149, s 1	commissioners, s 2: their duty, s 2	242
Wiley, Wilker and Adkisson's turnpike, c 150, s 4		243
duty of company, c 150, s 6: commissioners, s 6: toll gates, s 7		243
forcible passage of gate, c 150, s 8: duty of commissioners, s 10		244
White's creek turnpike company—commissioners, c 154, s 2		247
commissioners' power, c 154, s 3		248
White's creek springs company, c 157		249



